

ADMINISTRATIVE PROBLEMS  
OF BRITISH INDIA



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TORONTO



# Administrative Problems

of

## British India

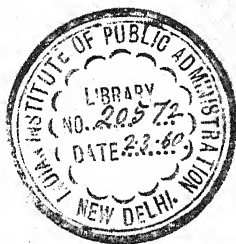
BY

JOSEPH CHAILLEY

MEMBER OF THE FRENCH CHAMBER OF DEPUTIES

TRANSLATED BY

SIR WILLIAM MEYER, K.C.I.E.



MACMILLAN AND CO., LIMITED  
ST. MARTIN'S STREET, LONDON

1910

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TO

THE RIGHT HON. VISCOUNT MORLEY, O.M.

WHO IN TROUBLOUS TIMES HAS GUIDED THE DESTINIES  
OF THE BRITISH EMPIRE IN INDIA WITH UNFLINCHING COURAGE

AND FAR-SEEING STATESMANSHIP

THIS BOOK IS, BY PERMISSION, RESPECTFULLY DEDICATED

BY THE AUTHOR AND THE TRANSLATOR



## TRANSLATOR'S PREFACE

M. JOSEPH CHAILLEY, the author of the French work *L'Inde Britannique*, of which an English version is now presented, is well known in France, and outside it, as a student of Oriental problems. He is a distinguished member and publicist of the French Colonial School, and has, since 1906, represented one of the divisions of Vendée in the Chamber of Deputies. M. Chailley has made a long and special study of the methods of administration in British dependencies, and in 1892 he published a volume on Hong-Kong and Burma, under the title of *La Colonisation de l'Indo-Chine*, which was translated into English. He personally visited India twice, in 1900-1 and again in 1904-5, charged with a mission to study our administrative systems there for the benefit of French Colonial administration. During the latter visit I was Indian Editor of the recently published *Imperial Gazetteer of India*, and in that capacity I was able to assist M. Chailley with information in regard to the matters he was studying, and to supplement this by personal experience of administrative work in Madras and with the Government of India. Our acquaintance soon ripened into friendship; and M. Chailley, having determined to embody the results of some of his researches in book form, asked me to revise his manuscripts, and to undertake an English version. I obtained permission to do

this from the Viceroy ; and Lord Morley, to whom I showed some of the French text in London last year, was kind enough to express his interest in the work, and to accept the dedication of the English version.

In dealing with M. Chailley's text, I suggested to him sundry corrections on minor points of fact, and condensation in some chapters ; while, as press of work compelled me to keep his manuscripts with me for some time, I was able, in some instances, to bring his presentment of facts up to date. These emendations M. Chailley has generally accepted ; but, except in so far as an opinion seemed to have been based on an inadequate conception of the facts, I have abstained, as my official position under the Government of India dictated, from challenging or altering any of the French author's conclusions and criticisms ; for these, he must be held entirely responsible.

The English version which I have prepared does not profess to be a literal translation of the French text. Some portions of the latter, as, for instance, in the chapter on States and Chiefs in Burma (Part II. Chapter II.), have been condensed ; and in some cases I have given a paraphrase of the author's statements and conclusions rather than an absolute reproduction. A comparison with the French text will, however, show, I trust, that I have been faithful to its spirit if not always to the letter.

My thanks are due to Sir A. T. Arundel, K.C.S.I., formerly a member of the Viceroy's Council, who has, owing to my absence in India, kindly seen my proofs through the press.

W. S. MEYER.

## AUTHOR'S PREFACE (TO FRENCH EDITION)

THE work that I now give to the public is the fruit of twenty years of thought, and ten of actual labour.

It would be impossible for me to indicate here the various sources on which I have drawn for its compilation. I began by reading; then I visited India; and, after a period of four years, I repeated my visit, with the result that I was able to make fresh observations with keener eyes. I then published, in a variety of newspapers and magazines, fragmentary studies, which I submitted to competent judges; and upon their criticisms, I revised these sketches in order to make them more correct, more clear, and, above all, more brief: I have, in fact, reduced matter which might have filled several volumes to a single one.

Now that I publish this volume, I desire to state that it is not my sole work: it is also that of my friend Sir William Meyer, the author of the translation which is simultaneously appearing in London. Sir William did not content himself with mere translation: he corrected facts and dates; he criticised, and sometimes revised, my historical and technical expositions; and it then fell to me to re-translate into French his so-called "translation." He has in fact only abstained from revising my theories, even those which, as an Anglo-Indian officer, he could not be expected to approve. It

is impossible for me to exaggerate what he has done, and what I owe him.

After him, I am indebted to some hundreds of persons, English and Indian—individuals of every race, officials of every grade, retired or in active employ, officers of the army, political agents, members of technical departments, professors and *savants*, travellers and sedentary students. They have offered me everything—their hospitality, their knowledge, their papers, and their advice—and I have accepted all. So numerous are they that I can only thank them here collectively.

I hope that this book may prove worthy of so many kindly coadjutors, and of the great French Colonial Party, for whom I desired to write, and to whom I dedicate, it.

J. CHAILLEY.



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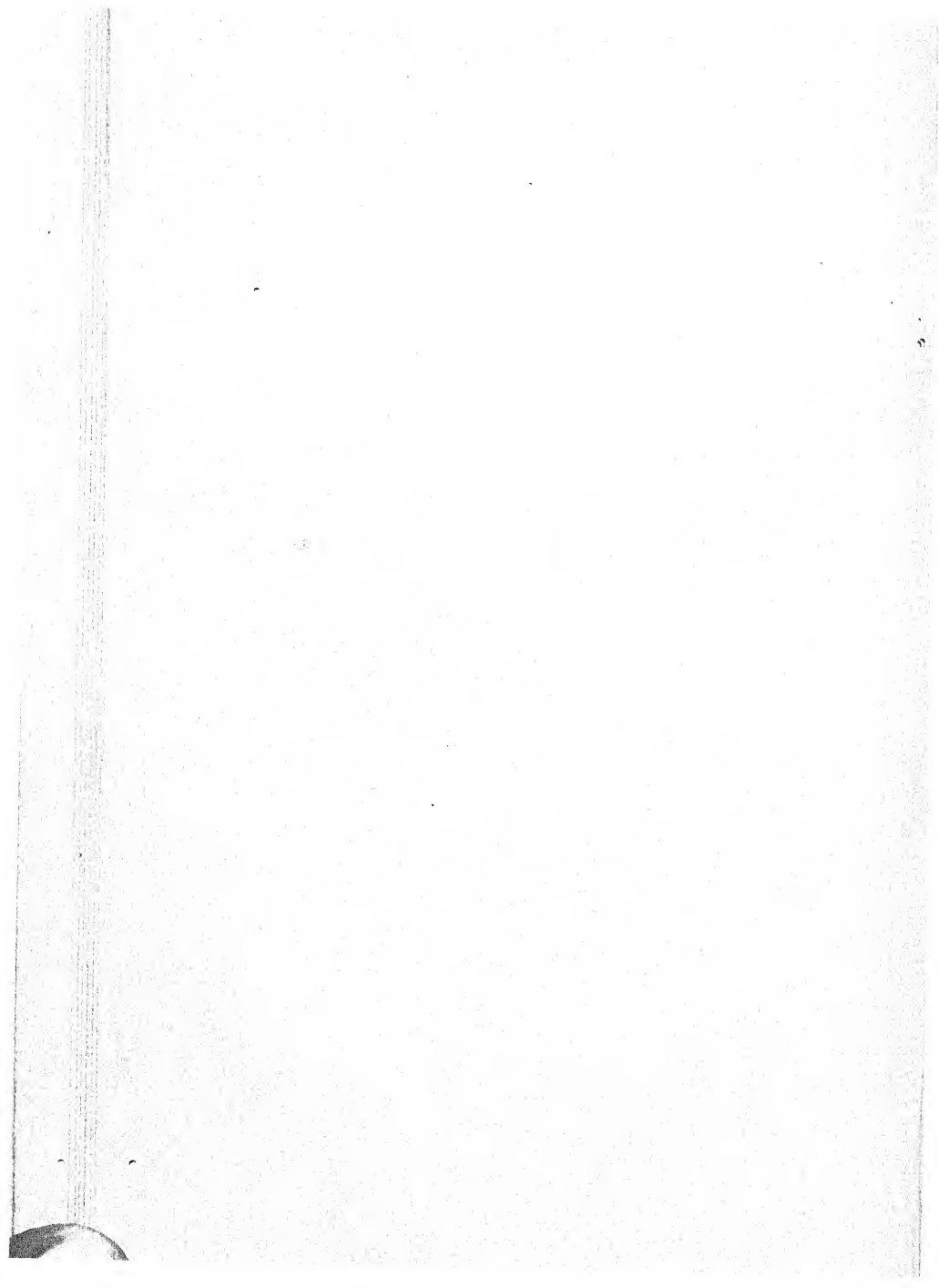
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BOOK I  
FIELD OF ADMINISTRATION





## CHAPTER I

### PHYSICAL AND ECONOMIC ASPECTS

India: its extent and variety—Mountains—Rivers—Rainfall—Climates and temperature—The official migration to the hills.

THE extent and the infinite variety of India justify us in describing it as a continent rather than a country.

Its area, including the tracts outside India proper which border on Indo-China, is more than  $1\frac{3}{4}$  million square miles. A line drawn from Baluchistan on the west to the Assam-Chinese frontier on the east would exceed 2000 miles in length; and a like distance separates the mountains of Kashmir on the north from Cape Comorin on the south. The land frontier of India extends over about 6000 miles, its coast boundaries over 9000, and the area which these circumscribe is, to use a comparison which will appeal to us more familiarly than mere figures, as large as Europe without Russia.

Geographically, we may distinguish, in this continent, the Peninsula, extending from the mountains to the sea; the mountain region on the north and north-west; the land beyond these mountains, including Kashmir, and, strictly speaking, Tibet also; and, finally, the Indo-Chinese territories—Burma and the Shan States which connect India with China and Siam.

To complete the category, we should also bring in certain areas situated between India and Europe which the English have occupied or placed under their influence in order to ensure their line of communication, *e.g.* Aden, which is attached to the Bombay Presidency, and various points on the coasts of Arabia and the Persian Gulf.

Politically, India falls under two categories—British India including Burma, with an area of over 1 million square miles and a population of 232 million souls, and the India which is governed by Princes and Chiefs who may be looked on as either allies or vassals of the British crown,<sup>1</sup> which covers an area of 700,000 square miles, with a population of more than 62 millions.

A geographical description of India is not within the scope of this work, but I must deal with certain salient physical characteristics by reason of their intimate connection with the political and economic condition of the country.

To commence with the mountains. These are of importance in all countries, but in India they dominate the economic life of the country and even influence the methods of administration. To her mountain ranges India owes her rivers and streams, the distribution of her water supply, and, in great measure, of her rains also; the varying fertility of her soils; the methods of land tenure and cultivation; the distribution and relative comfort of her population; and, lastly, the migratory character of her Governments. These mountains fall under two main groups or systems, the Himalaya and the various ranges within the Peninsula.

The Himalaya—"the region of snows"—extends

<sup>1</sup> Neither of these terms would be strictly correct. See Chap. I. of Book II.

beyond the Indian sphere; it is, indeed, the backbone of Central Asia. It consists of three portions, the southern, which is the "Himalayas" of the Anglo-Indian, the Kuen-lun range on the north, and between these an immense plateau whose mean elevation, which in some places is considerably exceeded, is from 15,000 to 18,000 feet.

The Himalaya in this wide sense is a prodigious mass. From east to west it measures 2000 miles; from north to south 500. Its area extends over nearly 1 million square miles, that is to say, it covers a surface equal to that of France, Great Britain, Italy, Austria, and Germany taken together. Its height is enormous, the average altitude of its watersheds exceeding 18,000 feet. The heights, the distances, the absence of roads or the impossibility of maintaining them, and the sparseness or hostility of the inhabitants, all make the Himalaya region a barrier between India and the rest of Asia which it is very difficult to cross, as the British army discovered during the recent expedition into Tibet. But there is a sensible diminution of height towards Baluchistan and Afghanistan, and this circumstance has in all epochs made these two countries a highway for invaders.

Immensity implies variety. The Himalaya contains all kinds of landscape—arid deserts, smiling valleys with luxuriant vegetation, glaciers which would cover a county, giant mountains which rise to a height of over 26,000 feet, or, as in the case of Everest, to 29,000, and which would look with disdain on the highest peaks of Europe. Nevertheless, as Jacquemont has observed, these mountains do not intimidate or surprise the traveller at his first approach. They do not rise abruptly, but in successive ranges, and their

loftiest peaks can only be seen from a great distance.

I shall speak below of the influence these mountain barriers exercise on the rains, and notably over the rain currents which we call the monsoons. They also furnish Southern Asia with its great rivers. The mountain mass situated beyond the Indian Himalaya contains the sources of the Indus, the Sutlej, the Brahmaputra, the Irrawaddy, the Salween, and in reality of the Ganges also.

Of the three portions which make up the Himalaya region, the one which is of special interest to India is, of course, the southern. This mountain line runs from north-west to south-east, and gives its character to that great part of the country which Sir J. Strachey rightly styles the Indo-Gangetic area—that is to say, the valley of the Indus, which stretches down to the Arabian Sea, and that of the Ganges, which extends to the Bay of Bengal—in all an area of 300,000 square miles, with a population of 160 million.

It is on the plateaux or slopes of the Indian Himalaya that we find most of the hill-stations which occupy such a large part in the annals of Anglo-India. During the hot weather a visit to Kashmir is the favourite dream of officials who can take leave and of other travellers. There, in comfortable house-boats, on lakes and rivers swarming with fish, and amidst beautiful and wild mountain vegetation, they can lead that life of sport, swimming, boating, and shooting, which is so dear to the Briton, and restores to him something of his distant fatherland. But the rulers of provinces can rarely leave British India during their five years' term of office. They cannot, except in case of illness, take leave of any description, and they must therefore obtain

the relaxation they need by changing the surroundings of their work. To some of these the Himalayas offer, within their own provinces, stations which can be made administrative centres during the hot weather—Simla, Darjeeling, and Naini Tal—where an altitude of from 6000 to 7000 feet allows them to escape the heat, to work with full energy during the day, and to sleep under a blanket and without a mosquito net. Only those who have had to endure the terrible heat of the Indian plains can understand the full meaning of the charm of fresh nights and peaceful slumber.

And who can paint the thousand fleeting aspects of the Himalaya? In the neighbourhood of Simla, for instance, the lower mountain slopes are covered with clumps of giant rhododendrons, large as our oldest oaks, whose red flowers sparkle amidst the sombre foliage of the deodar; while 4000 feet above you will see a glacier glittering in the sunlight. Take, again, the sublime beauties of the giant peaks which surround Darjeeling—thick clouds mounting their sides, their outlines veiled at dawn by rosy mists, while the valleys still slumber in white haze. Or, again, the stately grace of the lake of Naini Tal, whose banks are here fresh and neat, there sombre and tragic. Countless marvels, who that has seen you can bear the thought that he shall never view you again!

By the side of the Himalaya the other ranges of India are mere hillocks. And yet the peninsular triangle, bathed by the Indian Ocean, contains a whole mountain system whose physical and economic influence exercises a decisive effect over a region which extends to 700,000 square miles and contains 120 million inhabitants. This region forms—I cannot say a plateau, since flat surfaces are rare, but rather a medley of

heights and hollows, with dips here and there from 2000 to 4000 feet. It has two boundary walls which separate it from the coasts. These are the Ghauts (a word which means steps)—mountain ranges which run from north to south almost parallel with the Arabian Sea and the Bay of Bengal. The Western Ghauts reach a height of from 4000 to nearly 9000 feet; the Eastern are a good deal lower; while the Vindhya and Satpura mountains, which run from east to west at a height of about 4000 feet, form a connecting line on the north between the two Ghaut ranges. From this connecting line issue two rivers which flow into the Arabian Sea, the Nerbudda and the Tapti; while the Godavari, the Kistna, and the Cauvery flow from the Western Ghauts into the Bay of Bengal. These rivers, though insufficient to water a region whose area is so vast and whose form so irregular, constitute an essential factor in its economic life as instruments of transport and, above all, of irrigation.

The importance which the water question occupies in India will show how different conditions here are from those of Europe, and especially of Central Europe. With us, agriculturists who are not market gardeners are rarely troubled by drought. In India water is often lacking, and its absence or scarcity means dearth or even famine. The Indian water supply comes from rivers and canals, and from rain. The greatest rivers of the country are fed from the highest mountains in the world, whose snows assure them an almost constant supply, and the regions which they water are, thanks to irrigation, practically secure against drought. But there are regions whose rivers have a less abundant and less sure supply, and consequently afford less scope for irrigation, and others, again, whose water courses are

insignificant and where agriculture must depend almost entirely on the rains. Here cultivators and officials are constantly turning their eyes to the sky, to implore or curse the clouds that pass by them. The course of the rains receives special notice, not merely from the official journals, but from the ordinary newspapers. These latter have a regular column entitled 'The Season' which deals with meteorological conditions and agricultural prospects. At the approach and during the course of the monsoons these articles multiply, and we see special notices for various districts, such as—"There is prospect of rain," "The rains have begun," "It is raining at such a place," "Rain continues," "The fall is abundant, fair, intermittent, or very scanty," as the case may be. This is the critical period of the year, and every year a whole people passes through a period of anxious suspense. The phrase is no exaggeration; it is a matter of life and death, and the density of the population depends, in India, largely on the character of the rainfall. Nor is it only the quantity of the rain that is important, the period at which it falls is equally vital. Thus the Central Provinces, which is an essentially agricultural area, has on the average a rainfall of 60 inches a year, which is quite sufficient as regards total quantity; but its principal crops—rice, cotton, and millets—have different needs, and the rains rarely fall opportunely for the requirements of all of them.

The distribution of the rainfall in India is largely influenced by the direction of the wind currents known as the monsoons, and by the height and situation of the mountain ranges. There are two monsoons, the south-west, which blows from June to September, and that which is generally known as the north-east monsoon,

but which is really the retiring and deflected current of the south-west. The south-west monsoon comes into India from two sides, from the Arabian Sea and from the Bay of Bengal. The Arabian Sea current, the greater part of which gives rain to the country between the sea and the Western Ghats and to the districts immediately behind them, also extends over Central India and Rajputana. The current from the Bay of Bengal gives rain to Burma, Assam, Bengal, and the Gangetic plain, while the two currents combine to supply the Punjab and Western Himalayan districts. Regions which are struck by the whole force of the south-west monsoon get saturated with water, and certain portions of the Western Ghats and of Assam have a rainfall of from 300 to 500 inches a year. The average annual rainfall of London is about 25 inches, while in some parts of India more than this amount has been registered in a single day. The north-east monsoon gives rain to the east coast of Madras, and spreads into the interior, over the Mysore plateau and up to the verge of the Western Ghats. Some areas, especially in the Deccan and the Carnatic, get the benefit of both monsoons, while others, on the contrary, have nothing to expect from either, and look to rain outside the regular monsoon currents.

The distribution of the rainfall over India varies enormously. I have just mentioned certain figures relating to the Western Ghats and to Assam. On the other hand, Sind, a dry country which may be compared to portions of Egypt, receives only 3 inches of rain per annum, and Baluchistan and Western Rajputana not much more, while even in the same province you may find very large variations.

The temperature of India shows the same contrasts



as its rainfall. The country is so vast that it contains a variety of climates, and a single day's records of temperatures may show contrasts as great as between Nice and St. Petersburg. Generally speaking, however, we may divide India into two thermal regions: one in which the temperature remains fairly high throughout the year without any special alteration in the cold weather, as in Central and Southern India; the other in which there are great extremes of cold and heat, particularly in the Punjab, in Sind, and on the north-west frontier. This difference between these two great regions is easily explained. In the north, as you get far from the equator, you cease to obtain that equality of days and nights which ensures an equilibrium of temperature. The sun remains above the horizon for a period which varies according to the seasons, and consequently pours out more heat at one time and less at another. The Indian continent again broadens out as you go from south to north, and thus becomes less subject to the action of the sea-belt which tends to equalise temperature. Finally, varying atmospheric conditions affect the process of radiation by which the earth gives out more or less of the heat which it has received. In the provinces which are thus subject to climatic extremes, the hot season is the more formidable to the English and the cold weather to the natives. In the latter the Indian shivers in his thin cotton garments; in the former the European escapes from the plains if he can, but that is the happy lot of but a small number. Kipling has vividly described the hard life of those whose duties keep them away from the freshness and joys of the mountains.<sup>1</sup>

All things considered, the Indian climates are harsh

<sup>1</sup> See also note at end of chapter.

and trying. Sun and rain combine to develop a humidity and a tension which are alike weakening, and the European is not alone in suffering from these conditions. Over large areas in the interior of the country fever lords it over the natives, and its ravages cannot be exclusively ascribed to the marshy lands which engender it or to the mosquitos which convey it. In 1902 the average death-rate of India was calculated at 31·67 per thousand, of which 19·17 deaths were due to fever; and in Burma the expedition of 1885-6 which annexed the Upper Province lost far more officers and men from fever than in actual war-like operations. Then again in certain parts of India, especially in the heart of the Peninsula, you get innumerable flying, crawling, and foul-smelling insects, which thicken the air and make the evenings a nuisance and the nights a torment.

These conditions have exercised a notable influence over certain aspects of Indian policy and administration. The English, from force of circumstances, have had to make a careful and attentive study of local hygienic conditions, while permanent successful colonisation by Europeans is considered impossible, and for this, and other reasons which I shall treat of later on, has been for long discouraged.

We can now see how it is that the British administration has assumed a nomadic character. In the cold weather its functionaries have to be constantly touring within their charges, a system which promotes health as well as administrative efficiency. In the hot weather a whole group of officials, though not at all as numerous as those left behind would wish it to be, migrate in every province from the dreary plains to the fresh heights, deriving from this change benefit both to body and mind, and profiting the Government

by less waste in *personnel* and by the better character of the work done.

### NOTE TO CHAPTER I

In Sind, in the Punjab, and in Rajputana, the sandy soil stores up the solar heat. In Upper Sind, which is far from the sea, the thermometer records enormous temperatures, and all the domestic arrangements of the European inhabitants attest the primary necessity of escaping from the heat. In the houses, the thickness of whose clay walls recalls our buildings of the Middle Ages, everything is shut up between 6 A.M. and 8 P.M., and the temperature is kept between 100° and 105° F., otherwise it would be between 115° and 120°. The punkah, an immense fan waved by native attendants by means of ropes and pullies, is everywhere. A punkah for dinner in the open air, a punkah to refresh tennis players, a punkah for writing, a punkah to ensure sleep at night, which is sought, on the housetop, under sheds constructed so as to catch the least breath of air. Mosquitos are formidable at this season, but there is no attempt to shelter from them under mosquito nets, which would be stifling. We sleep exposed to their attacks, but with feet and legs protected by shoes and stockings, and the exposed upper part of the body smeared with kerosine oil which keeps them off; while around us are earthen vessels which a "boy" frequently fills with water and stirs in order to set up evaporation. And yet in this same country, in the winter, you must sleep under double blankets if you don't want to be thoroughly chilled.

## CHAPTER II

### “ PICTURESQUE INDIA ”

Scenery—Man and nature—Wild animals—Disappointing character of India to the tourist—The India of to-day and the India of the past—Bombay, Karachi, Rangoon, Calcutta, Simla, Hyderabad, Benares—Infinite variety of country and peoples.

To many people who remain quietly at home, but who, active in mind though not in body, read, imagine, and use their mental vision, India seems a country of mystery and beauty, in which nature, art, and history combine to excite and satisfy the interests of the traveller, of the *dilettante*, and of the savant. The reality by no means corresponds to this vision. During the greater part of the day, the heat and glare of the sun keep the European who has to live and work in the plains within doors. The evening closes in rapidly with sunset. There is no twilight—no charming and vague interval between the hours of strenuous work and those of rest and relaxation. This is one of the melancholy phenomena of India, and leads to sad recollections of the splendid sunsets and the long fresh evenings of Europe. In India darkness comes on suddenly, accompanied by the melancholy howling of the jackal and the irritating and persisting hum of the mosquito. The darkness of the night brings vague and distorted apparitions of gnarled trees and threatening

rocks, with the noise of rustling leaves and murmuring streams—sounds and sights which must have actively contributed to convert modern Hinduism into a motley paganism in which all the forces of nature and all the terrors of man have been elevated into gods, each of whom has its own cult and its own votaries.

Nor does the landscape of the greater part of India, outside the Himalaya, answer to expectation. The stranger has looked forward to an exotic and abundant display of nature, but this will only be found in that portion of India which lies within the tropics. The palm trees that leap—as it were suddenly—to great heights, whence they toss into the air their green and feathery foliage; the creepers that travel along the ground, attach themselves to trunks of trees, and, after covering these, unite their foliage and light up the forest; the streams and rivulets that flow in the bottom of the valleys, so concealed under luxuriant vegetation that they can only be located by their sound; the gigantic hedges of heliotrope and fuchsias; the clumps of bamboo and tree-ferns; the white flower-cups of the arum-lily and the datura—all these are only found within the tropical zone, south of a line drawn roughly from Calicut to Pondichery, or in the moist deltas of the great rivers. Elsewhere, it is true, the Indian landscape sometimes assumes an almost European character, with wide plains and rolling downs, mountains that close in the horizon, and fogs which are sometimes light and fleeting clouds, and sometimes carpet the hollows of the valleys in a thick cotton-like mist. On the slopes of the hills, too, you find trees with familiar forms, whose leaves, changing and falling with the course of the seasons, afford a grateful contrast to the monotony of ever-green foliage. The trees of

India, however, though the soil is admirably suited to them, are becoming more scanty. In India proper the primitive forest has almost disappeared save in some regions, as in the Central Provinces, where it has been in historic times an asylum for vanquished tribes, and still remains an impenetrable abode of fever. The forests which now exist, and have been in some places replanted, and which abound in magnificent trees, the joy of the painter and the economist, mostly owe their preservation to administrative vigilance. Deforestation, partly the work of progress and sanitation, and partly the product of mere ugly barbarity, has levelled everything, leaving a flat monotonous soil. In many parts of the historic Gangetic valley the keenest sight can find no definite horizon; there is but an infinite extent of cultivated lands—wheat and all kinds of millet, rice, cotton, indigo, jute, etc. No more woods or even thickets; at most a “jungle,” and isolated sporadic trees.<sup>1</sup> The native of India appears, indeed, to be the mortal enemy of trees. Over plains and hills he has destroyed them all, and sometimes for the mere pleasure of destruction. The result is that the streams are drying up, that firewood has become dear, and that most of the Indian peoples cook their food over dung which is dried on the walls in the form of cakes. The English are now trying to re-afforest. They are planting nurseries, and are fringing the highways with acacia or with the *nim* tree, a species of ash. But it is a work of time and patience which would be at once ruined, were supervision withdrawn, by the knife of the peasant and the

<sup>1</sup> The word “jungle” is used in India in two significations. It may mean wild forest country, and especially the natural tropical forests of the south, or it may simply signify land which is covered with poor trees and shrubs. It is in the latter sense that it is employed above.

teeth of the goat, for cattle take as great a part as man in this work of destruction. Although, all over India, there are communal grazing-grounds and sheep-folds, oxen, buffaloes, sheep, and goats constantly roam about at will. Sometimes they are surprised by a horseman on the road, or by a train on the railway line, and chased on by horse or engine. A turn in the road, or a break in a fence, permits them to escape, and they then penetrate into some field or wood which is not guarded and ruin the work of a season.

It is a curious fact that in this country the animals seem almost dumb. From time to time you hear an ass bray, but the dogs often fail to bark even at strangers. The cattle graze in silence, and the sheep forget to bleat. Virgil, with his beautiful lines on lowing oxen, and our whole school of bucolic poets, would here run the risk of being misunderstood. Again, in our luxuriant meadows, white, black, red, and brindled cattle add splashes of variegated colour to the green grass, while here grey or tawny cows browse on dry, brown fields, and their colouring is merged in that of the pasturage.

These landscapes without colour and life, this slow destruction of all that adorns the soil, were thus explained to me by an Englishman with a sense of humour. "The ox is silent (he said) because his enemy the wild beast is prowling around. You regret the forest that has been gnawed by the goat or devastated by the woodman; rather rejoice in the triumph of civilisation, in that wheat will shortly grow on what had been a tiger's lair."

To the tiger add the panther, the leopard, the hyena, the wolf, the snake, and the elephant and you will have the bulk of the army of wild beasts which

threaten men and which he combats. But his campaign against them has not yet been marked by great success; natural reproduction makes up for the casualties that he causes. The statistics of 1905 show that 23,851 human beings were, in that year, killed by these terrible animals—21,797 by snakes, and 2054 by wild beasts. Of these latter deaths, 48 were due to elephants, 401 to leopards (126 in the Central Provinces alone), 786 to tigers (1170 in 1901), 153 to wolves (in 1901, 403, of which 166 deaths were in Rohilkhand alone). No doubt tigers and snakes are sometimes held responsible for deaths which are really caused by man, but allowing for this, their ravages, which in 1905 included also 92,277 cattle killed by wild beasts and 8039 by snakes, explain the encouragement which the British Government affords to their destruction. The rewards which it pays for this amount yearly to about Rs.100,000, and the native chiefs follow the same policy.

In concluding this brief and rapid sketch, I must once more insist on the fact that India is a land of infinite variety. He who only travels over one portion of it has no right to pronounce on the remainder. The difference between one region and another is not merely the distinction you may find between French provinces or English counties—the contrasts are far larger. You may pass over 20 leagues of country to find that everything has changed, nature, people, language, and civilisation. And yet behind all these contrasts India affords a certain amount of family resemblance. The least attentive European observer notices by a thousand signs that he is in an entirely different world; that, except in those limited areas which the European has really dominated, he has to deal with Asia.

Nearly eighty years ago Jacquemont had already



observed that, in the matter of the picturesque, India is very poorly endowed. The Himalaya, no doubt, form a standing protest against this assertion, and a hundred other places would give it the lie. Nevertheless, it remains largely true. Where can we find the picturesque in a land of deltas and monotonous plains? How hope to find art among poor and impoverished populations whose means are so limited and whose tastes so humble? What can we expect of a country which may be described as the home of overthrown dynasties and destroyed civilisations?

How many of the noble constructions of the past are to-day in ruins? The seven cities that make up old Delhi, Fatehpur-Sikri, Amber, Golconda, Ava, Amarapura—homes of ancient kings which their successors abandoned for the pleasure of making their own dwelling-places—still display, not far from the cities that have taken their places, towers, minarets, ramparts, and blocks of fallen walls that testify to the ambitious, and often happy, efforts of vanished generations. And it must be remembered that these ruins are almost all modern, contemporaneous for the most part with monuments that still exist. It is, after all, but a short space of time that separates the Kutab Minar of ancient Delhi from the sixteenth century Taj Mahal, at once tomb and mosque, whose beauty is best appreciated by moonlight, when the white marble stands out in the clearness of the night. Almost everywhere, in what remains standing as well as in what has fallen, you find the influence of the Arab, nay, even of the European; but over what ruins twenty times more ancient may not those which we now see have been constructed, and of what marvels have we not been deprived by the successive waves of barbarism that have flowed over the country? The recently reorganised Archæological Department may

tell us some day, but already we can understand and explain why, save in certain privileged regions, India, ravaged and despoiled as she has been, excites curiosity and enthusiasm in a less degree than other countries. She is, indeed, a "land of regrets."

I must add, to account further for the disillusionment of the traveller, a consideration which is to my mind of primary importance. Nearly all those who visit India are pupils of Greece and Rome. Whether we come from Oxford, from Paris, or from Berlin, we are cast in the mould of Roman and Greek civilisation. If we visit Athens or Perganum, we cannot tread the sacred soil or approach the venerable monuments without our memories being awakened and our souls inspired. The legends and history of the place are familiar to us, and we admit in advance the most audacious demands of mythology. The great deeds and adventures of the Homeric heroes, the loves and rivalries of the Olympian gods, the beauties of the Acropolis and the Parthenon and the fame of their sublime artists—all this is already in us, and rises to flood our mind with enthusiasm and to increase tenfold the charm and the beauty of a pilgrimage to the cities of Priam, Apollo, or Pericles. In India, on the other hand, the mythology seems to us strange and overcrowded. The history is less familiar. The religions (not the gross animism of the present day, but the ancient and respectable forms of Brahmanism and Buddhism) are in certain respects like our own, and for that very reason may offend the devout. Vishnu, Siva, and a thousand minor deities, Rama and Krishna, the favourite heroes of the great Hindu epics, are not familiar to us in the same way as Achilles and Ulysses, Jupiter or Minerva. In short, our want of acquaintance with Hindu legend prevents that gush of memories,

and moderates that stir of soul, which binds the past to the present and the unseen to the seen. It suppresses that fertile element of enjoyment, the intimate and unconscious collaboration of the spectator and the spectacle. In spite of all this, however, India is so vast and so varied that it abounds in landscapes, cities, and shrines which may well excite our emotions and stimulate our reflections.

It may be said in truth that there are really two Indias—the India which lives in the present and is transforming itself under the conditions of our epoch, and the India which tries to shut itself up in its loved past.

The India of the present is typified in Bombay, half-European and half-Asiatic, with her cosmopolitan population of 800,000 souls; a harbour where every language is spoken, and which is the emporium for the grain and cotton of Gujerat, the Deccan, and Central India; and her great modern Gothic buildings which meet us unexpectedly under Oriental skies. She can boast, too, of a noble sea-drive, along which at the close of day you may see ladies of all societies, Hindu, Musalman, Parsi, and European, passing in their carriages, bowing to their acquaintances, and looking curiously at others—a curious contrast of physical nearness and mental distance.

Take, again, Karachi, the infant capital of a land won from the desert, with a harbour but lately fitted to the needs of commerce. A city which, situated at the entry to the Indus valley, is drawing to herself, though less quickly than had been hoped by the Government and the local municipality, the wheat that irrigation has called forth from formerly desert soils in the Western Punjab and in Sind.

Or, again, Rangoon, that new and wonderful creation of British genius—a city which has lately emerged from

the mud of the Irrawaddy delta, and now conveys gay and picturesquely varied crowds along her ample streets and past her sparkling pagodas. Her harbour is but of yesterday and is already one of the most important in India; and her trade is growing with the goods collected for her by the Irrawaddy in its course of 1200 miles—rice from the delta, the valuable timbers of Upper and Central Burma, hereafter the products of the Shan States, and perhaps of Yunnan also.

Then we come to Calcutta, the pride of India, the city of wide open spaces, where you find cattle grazing in the heart of the town. A city of work and pleasure, a colossal business centre which is at one and the same time an immense emporium and a gigantic workshop. The Hugli and its densely populated banks are here laden with constantly passing consignments of jute, cotton, and indigo, and the pressing crowds are as thick and impatient as those which one sees on the banks of the Thames. A worthy capital of empire this; magnificent in its growth and life; product of the slow conquest of a marshy and melancholy land; intolerable during its summer, but delicious in the cold weather; feared and almost despised by those who know her not, but seductive and retentive to those who visit her.

New India, again, includes all those hill-stations where the Governments of India and of the provinces take refuge against the summer heat, escorted by their departmental officers and clerks, and bringing in their train the indigenous aristocracy of the north of India, and the idle and snobbish of all races who desire to approach the great ones of the earth. Into this category come Simla, the summer capital of the Governments of India and the Punjab, Ootacamund in Madras, Maha-

Darjeeling in Bengal, Maymyo in Burma, and Mount Abu in Rajputana. There are others, too, which are not the seats of Government, such as Murree, Dalhousie, Lansdowne, Mussorie, Kurseong, Lanauli, Khandala, Coonoor, and Kodaikanal.

These hill-stations, *sanitaria* as they have long been termed, are not fresh inventions; the earliest of them date back seventy or eighty years. What is relatively fresh is that, to the great scandal of the cities of the plains, they have become for many a necessity.<sup>1</sup> The queen of them all is Simla. She is not the most beautiful, for Ootacamund (Ooty as it is familiarly termed) surpasses her in the variety of its landscape and in its possession of great open spaces; Naini Tal in wild grace; Maymyo, a corner of Surrey set down in India, in the peaceful charm of its downs; Darjeeling in the sublime splendour of its mountains. But Simla is the seat of the Government of India for seven months in the year and of the Government of the Punjab for six, and no other Indian town exhibits such a mixture of ardent pleasure and intense labour. All the working and frivolous elements in India go to Simla when they can, and the rest dream of going there.

And well may they do so, for the place deserves it. Each of the peaks and hills which Simla commands offers, in successive planes, delicious or striking views: here distant snowy peaks, some of which reach a height of 16,000 feet; there sombre groups of pines and deodars. All her slopes—and they are everywhere, for the roads have been cut along the mountain side—are green and flowery. The house gardens have been

<sup>1</sup> Every year the press in India strongly protests against this periodic exodus of Government, but its protests remain of necessity ineffective. Their only result will be gradually to enlarge the number of privileged persons who go to the hills on duty.

decked with dahlias which have multiplied and become wild, and now shoot out with vivid colouring amidst the herbage of the slopes. But grass, flowers, and trees all have their enemies—the peasant whose potato plots have ruined the forest; the coolie who bares slopes and plains to cut grass for horses, and drags daily into Simla bundles which cover him from view; and the “boy” who ravages banks of flowers to adorn his master’s dinner-table. But the European inhabitants of Simla, an eager crowd of birds of passage, are not concerned with nature and her beauties. Such joys as they have are in themselves and with one another. Go to the “Ridge,” halt before the Delhi bank or Ranken’s shop, and look at the throng that passes. You will see civil and military officials quitting their offices; ministers and secretaries leaving Council; society ladies and housewives visiting the shops; fashionable women on horseback, proud of their mounts and of their own attractions; the wives of the brilliant colonel and of the subtle diplomatist who rival one another in toilets and flirtation; the A.D.C. mad on sport and the Under-Secretary mad on literature—all these are fully occupied in thinking of their work or their amusements; of this evening’s dinner and of the State Ball at Government House which will follow it; of to-morrow’s Council, and of a report that has to be sent in to the Viceroy; of a picnic at Mashobra; of the latest performance of the Amateur Dramatic Society; of a cricket match between two rival regiments; of a tennis party, or of the races at Annandale; of a face which may be seen on the turn of the road; of meetings which have been sought and of foreseen surprises.

In these occupations the months and the years glide by, while the days fly, each too brief for what

people wish to crowd into it. The sunset and the approach of the evening bring no respite. In the secretariat the stream of labour ceases only for the clerks. The rickshaw coolie bathes his feet and ties up his legs in preparation for his evening run. The couples who have had tea and ices at Peliti's go back slowly along the winding roads and steep paths, tired of the pleasures of the day, but already looking forward to those of the evening. The houses refill, and before dressing for dinner men and ladies sit out and enjoy the fresh air. Spread out under their eyes is a vista of flowers—geraniums, roses, and creepers; farther off the steady tops of the fir trees; farther still the flight of the setting sun, the dry bed of a stream, and the glitter of a pool lit up by the vanishing sunlight. Closing the horizon you get a slate-coloured sky streaked with bright gold. Then as the day fades a canopy of pale green light appears, through which you can just make out a copper-coloured crescent moon. A few minutes later the orange tints of the sunset deepen into the dull red of evening. The moon becomes white, the planet Jupiter stands out against the darker blue of the sky, while a bird of prey describes its lazy circles in the air. The calm beauties of the sky diffuse peace on the earth, but her human inhabitants pay no heed; the whirlpool of life clutches and drags them on.

The India of the past is found in many a village in which hardly a European has set foot, and which perpetuates the memories and customs of long ago. It is seen in the deified rock which inspires terror when the thunder rolls, and in the fetish tree round which young wives pour out for hours their prayers for fertile maternity. Old India is also seen at Udaipur, the seat of a dynasty which traces itself back to the gods. Or

at Hyderabad, a city which seems to have come out of the Arabian Nights, where 400,000 people, largely Muhammadan, many of them fanatics and still more sceptics, live a life in which Harun Al Raschid would find himself at ease. Here you find secret and mysterious terraces, and veiled women whose eyes, dull though they may really be, seem to shine through their covering. A bridegroom passes, motionless and rustling with gold; galloping horsemen shout to clear the crowds away; here is a carriage full of reverend seigniors, there one, like a huge basket, crammed with hidden princesses. The traders of the bazar sit in front of their shop doors along the sides of the streets, surrounded by their friends and relatives, who chatter together and take an unasked part in bargains. You will see a young man who stops you with an engaging smile; a humble old woman who solicits alms; men of fierce aspect whom you discover to be only sturdy beggars or cheeky porters; elephants decked with gold and paint that pass at a slow and heavy pace. Strange cries and novel odours meet you everywhere. You are a thousand years away from the present, and only two hours' drive from that ruined Golconda whose name once filled the world. And yet twenty minutes in a carriage will take you to the Residency or to the Secunderabad Cantonment; to "sports" and flirtations that recall you to the dull civilisation of to-day.

The past is again summed up in sanctuaries, such as the temples of Madura with their dark and winding corridors along which elephants walk amidst a crowd of worshippers. Or by Puri, with its shrines of Jugganath—so wild in appearance as one skirts the temples; so calm and peaceful behind the *dák* bungalow, as one walks along a stone platform by the side of a sea which



is blue as the Mediterranean and tranquil as a mountain lake.

Take, again, Benares, city and sanctuary ; object of the passionate vows of so many restless souls ; abode of metaphysicians who are the last heirs of the ancient Hindu philosophy ; more sacred still to some through memories of the Buddha, who began not far from here to preach his pure morality and his doctrine of quietism. To-day Benares, with holy mother Ganges bathing her temples—the Mecca and Jerusalem of Hindu Brahmanists—and the pilgrims to her shrines, afford a vivid example of trusting piety and of its degrading exploitation. Here is the quarter of the copper workers who turn out a thousand objects of worship, polished by women and children, and glowing dark or ruddy in the rays of the sun. Here are palaces and temples which extend along the banks of the river in an arc of half-a-league. Here are majestic stone staircases by which thousands of white-robed pilgrims from all parts of India descend morning and evening to the sacred river. Near to the dead, who are awaiting the evening fires, they enter the stream which cleanses body and soul, closely mingled and yet isolated in their hurrying throngs. Old men so feeble that they feared they might not reach their journey's end, who prolong their stay from week to week, and sometimes from year to year, in anticipation of the death which will free them from this world's ills ; young men who come to partake of a sacrament for the voyage of life ; pilgrims sublime in their religious enthusiasm. Here is an old man who raises with slow and pious hands an offering of water that scatters into sun-illuminated drops and drips over his closed eyelids. There a young woman with bare shoulders and breasts—a charming bronze statue—careless amidst

her prayers of her beauty and her nakedness. Farther off another woman, wrapped in moist, clinging garments which reveal her entire form, rapidly throws these off and instantaneously glides into others that hide her charms.

How beautiful is the attitude and behaviour of many of these pilgrims! Mark the long waits, with body at rest and soul absorbed; the abandonment of ecstasy; the mystic gestures; the statuesque poses. Note the woman who comes to draw water, the suppleness with which she raises her jar to the shoulder, and the graceful movement of the arm by which she fixes it there. Here a *purdah* lady glides in her boat along the river, hidden from all by thick wrappings. Yonder a fierce devotee greets us with an angry scowl, an omen, were the English not here to guard us, of certain death. Priests are reading the praises of Vishnu, surrounded by women who become troubled and restless at the noise of our footsteps. Farther off other priests (they are innumerable) are resting, under large umbrellas, near cows as sacred as they are, and affect to pray, while they are really chattering and begging, discussing the alms they receive, degrading religion, and tarnishing this touching picture of a society which seeks to forget the earth. Farther off you get the regular *clientèle* of places of pilgrimage—miracle-shrines (the same everywhere), traders, cooks, beggars, the halt, the lepers, and the blind.

And all this time the Ganges is flowing by in the sunlight. From Hardwar, miles above Benares, where it commences to be regarded as sacred, the holy river descends, past many other sanctuaries, to Calcutta, where its merit, though now diminished, is still sufficient to cleanse, to cure, and to console. Times change; pilgrims succeed to pilgrims, faith and hope are passed on from

age to age, never verified, but never disproved; and men continue to seek consolation for the disappointments of to-day and comfort for the uncertainties of to-morrow.

These descriptions will show the reader how heterogeneous India is. The deltas of the Ganges and Irrawaddy, with their immense carpets of rice, stand altogether apart from the rough and irregular Deccan with its poor cultivation, its stony soil, and its lack of water courses; or from the arid and scantily peopled deserts of Sind and the Western Punjab, which are only now, under British rule, expecting transformation and prosperity from irrigation. I could multiply examples of the infinite varieties of India. I should have loved to describe Rajputana; the south of the Peninsula with its palm trees; and the garden regions of Oudh, Bihar, and Gujerat; but space forbids. I must sum up in one sentence: physically, India is a continent as large as Europe and with as many contrasts.

Such variety would in itself exercise an immense influence over the Government and administration of the country, and we have now to take into consideration another most important element—the diverse character of the peoples.

## NOTE TO CHAPTER II

No part of India deserves greater study than Rajputana. Physically it consists of plains and hills, composed of soft and fine sand, so deep that borings have gone down 150 feet without finding rock. Sir Swinton Jacob, who for the last thirty years has practically controlled the Public Works of Jaipur, one of the most important of the Rajput States, conjectures that Rajputana, Sind, and a portion of the Punjab are an old bed of the sea which used to stretch from the Persian Gulf to the Himalaya.

Ethnically and historically the Rajputs have a past as interesting as it is glorious. Sir Alfred Lyall's *Asiatic Studies* contains a powerful and acute essay on the Rajput States, which throws most valuable light on present-day conditions in India as well as on her past history.

## CHAPTER III

### POPULATION

The Census of 1901: its methods and results—Reasons for the small increase between 1891 and 1901—Birth- and death-rates—Distribution and relative density of population—Migration, immigration, and emigration; Indian immigration—Sex distribution; excess of males in various provinces; possible explanation—Marriage statistics—Child marriage and widows—Polygamy and polyandry.

ACCORDING to the Census of 1901, India contained 294,361,056 inhabitants. The minute exactitude of this figure is significant. In Asia, people are not accustomed to accurate numberings; the authorities content themselves, as in French Indo-China, with approximate estimates or calculations based on index figures, such as the number of houses or huts and so forth. In India the first census work was also by estimates; but the Government went on to more accurate methods, and the Census of 1901 was based on the most exact German principles.

In the East, however, there is no question of the public furnishing of their own accord the required information; everything has to be done by the Government, and this, of course, adds materially to the difficulty of the task. It is impossible to realise the infinite precautions taken to arrive at satisfactory results in 1901. There were 9872 tabulators, 122,503 overseers, and 1,325,478 enumerators; some of the

latter Government officials, others voluntary or temporarily paid agents. The general scheme was prepared at headquarters; the necessary orders were, long beforehand, transmitted to the various grades of the official hierarchy; and printed forms were distributed to the local agency; so that at last there was nothing left but the filling up of these. Special officers traversed the whole country, saw the local agents, and, with them, visited towns, villages, and camps, counted and marked the houses of each census block, and estimated the numbers which would have to appear on the census sheets. Some days before the actual census there was a sort of rehearsal throughout India; and finally, on the day fixed for the actual enumeration, the machinery thus carefully prepared proceeded to work, and in a very short time the Government was able to publish approximate figures.

But the census goes far beyond mere figures. It is expected to furnish, and does furnish, much valuable information on the demography of the country, on races, religions, castes, languages, and economic conditions. All the information thus locally acquired is brought together for each province by a Census Superintendent, selected for his aptitude in handling such questions; and finally, the general results are dealt with by an Imperial Census Commissioner. Accordingly, the record of the Census of 1901 is contained in a large number of volumes—two for India as a whole, containing the imperial statistics and the report commenting upon them, with similar volumes for each province. The reports deal not merely with the figures and the conclusions to be drawn from them, but with ethnography, religion, philosophy, and economics; and the whole series forms a gigantic work which can claim

favourable comparison with anything produced in Europe or America, and which is extremely creditable to the Indian Government.

To commence with figures. The Census of 1901 gave, as has been said, a total population of 294 million, of whom 232 million belong to British Provinces and 62 million to Native States.<sup>1</sup> The Census of 1891 showed a population of 287 million; that of 1881, 254 million; and that of 1872, 206 million. But these successive figures do not admit of exact comparison, since fresh territories were for one reason or another included in successive censuses. Accordingly, they are not reliable as an index of the rate of increase; but the main fact remains that that increase was less between 1891 and 1901 than in the decade preceding.

The general rule is that every census shows an augmentation of population, caused by the large number of marriages; the fecundity of the race; the absence of Malthusian practices; and the progressive development of the country—due to the natural fertility of the land, as in the Ganges valley; to irrigation, as in the United Provinces and in the Punjab; to the introduction or development of special crops, such as tea, cotton, jute, and opium; or to new industries, such as jute and cotton mills. There are, however, counter-vailing factors, due to particular local conditions, to malaria, or to special visitations, such as plague and famine.

Between 1891 and 1900 serious famine prevailed over large parts of India—in Bombay and the Central Provinces, and in portions of the United Provinces and

<sup>1</sup> Of the 294 million, 29 million lived in 2148 towns of 5000 inhabitants or upwards, and 265 million in 728,605 villages.

the Punjab, as well as in a number of Native States adjoining these areas, *e.g.* Baroda, Hyderabad, and the States of Rajputana and Central India. The effect of famine in the Native States was so serious that their aggregate population showed a decrease of 5·4 per cent in 1901 as compared with 1891, while British India showed an increase of 4·8 per cent. Taking India as a whole, there was a net increase of 2·4 per cent only, which would have been more than doubled but for famine.

The native of India does not live long, and soon ages. The mean age of the general population, if one can speak of a mean in a country composed of such diverse elements, is 24·9 years. The people of the north live longer than those of the south and west, and the Aryan race has a greater longevity than the Dravidian or the Mongolian. These, however, must be taken as very general statements, which are often not true of particular areas. The main fact is that India still suffers from causes of misery and death from which Europe is now free, and specially from famine. The annual average death-rate has been estimated at 38·4 per thousand, and the birth-rate at 44·4, but these figures are based on very imperfect data. In periods of famine the number of births, of course, diminishes, while that of deaths increases, and the mean age, in regions exposed to famines, is less than in tracts which are practically free from it, such as Bengal proper. The birth-rate above quoted is very high as compared with that of European countries—39 per thousand in Germany, 35·1 in England, 31·5 in Belgium, and 25·3 in France; it is due to various causes, but chiefly to the enormous proportion of married persons. In India 78 per cent of the women between 15 and 45 are

married against 47 per cent in England—hence the large birth-rate; but taking relative fecundity, on the basis of the ratio of births to the number of married females between 15 and 45, we should get 254 per thousand in England against  $247\frac{1}{2}$  in India. The mean death-rate, moreover, is far larger in India than it is in Europe, and 47 per cent of the deaths occur among children. In collections of adult males the mortality is below the general average: it is 29 per thousand in jails, 11·7 in the Native Army, and 15·6 among the British troops.

It is impossible to dwell on all the interesting statistics which the census supplies. I can only treat of those which have an important bearing on economic or social problems. The total population of 294 million is very unevenly distributed. The British Provinces, with 1,087,204 square miles, contain 232 million people; the Native States, with 697,293 square miles,  $62\frac{1}{2}$  million. Taking India as a whole, the general average is 187 persons to the square mile—213 in British India and 92 in the Native States, but such general averages would give a very inadequate notion of the actual distribution. The Province of Bengal, as it existed in 1901, had an area of about 190,000 square miles and a population of  $78\frac{1}{2}$  million.<sup>1</sup> The density in the North Bihar districts was as high as 636; while the district of Howrah, adjoining Calcutta, has, thanks to its jute mills, a population of 1688 per square mile. The Bombay Presidency, with an area of 189,000 square miles, has about  $25\frac{1}{2}$  million inhabitants, giving 135 to the square mile, a proportion which reaches 267 in

<sup>1</sup> In 1905 the Eastern Bengal districts, with an area of about 50,000 square miles and a population of about 25 million, were split off from Bengal and united to Assam.



the fertile plains of Gujarat. The Central Provinces, with an area of about 134,000 square miles, have  $14\frac{1}{2}$  million people, or 109 per square mile; and Burma, with 237,000 square miles,  $10\frac{1}{2}$  million people, or 44 per square mile. Madras, with 151,000 square miles and about 42 million people, has an average density of 270 per square mile, which goes as high as 1920 in one of the coast taluks of the Native State of Cochin. The Punjab, with 134,000 square miles and 25 million people, has a density of 180 to the square mile, which reaches 214 in the lately irrigated and colonised valley of the Chenab. The United Provinces, with 112,000 square miles and  $48\frac{1}{2}$  million inhabitants, have 432 inhabitants to the square mile, going up to 791 in the opium growing district of Balia.<sup>1</sup>

A population thus unequally distributed may well result in an insufficiently developed country. In one part land is wanting, in another labour; an even distribution of these would check famine. At first sight nothing would seem more simple than to adjust the balance by attracting the population of congested districts to sparsely peopled areas, and this has been done on a small scale in Sind and the Punjab, where the opening of the Jamrao and Chenab canals speedily attracted population to new irrigable land. Ordinarily, however, the unoccupied land in thinly peopled districts is of poor quality, and does not tempt emigrants; and, generally speaking, attempts to relieve congested districts have failed. The native of India remains bound to his native soil by ties of family, religion, and local organisation. In 1901, out of 294 million inhabitants, only 8 million were born outside the provinces in

<sup>1</sup> The figures here quoted for the various provinces include minor Native States which are under the control of Provincial Governments.

which they were enumerated. It has been suggested that the desired exodus might be aided by raising the land revenue in the congested areas, but such a course would arouse grave discontent.

There is, it is true, some local migration between neighbouring villages and districts, due to want of work or food, or to marriage customs which require a wife to be sought outside a man's own locality ; but such movements have little economic importance. There is, also, a real stream of interior migration, consisting principally of coolies who seek to work on the tea gardens of Assam and the coffee plantations of the Nilgiris. In Assam between 700,000 and 800,000 workers, or about one-eighth of the total population, come from outside the province, chiefly from the Chota Nagpur plateau in Bengal, from the Central Provinces, and from Madras. Bengal, in turn, has attracted about half-a-million natives of the United Provinces, who come to seek employment in coal mines and jute and cotton mills, on public works, and in the fields. Ceylon, again, has taken about 400,000 coolies from Madras for work on the tea gardens there.

The most interesting of these movements, however, is that from Bengal and Madras towards Burma. There the land is so rich that it affords large profits, and the Burman, a philosopher who looks to the enjoyment of life, does not share the sentiments that lead other races to save. The soil rarely refuses him a harvest, and when he has satisfied his needs and acquired a competence he does not seek for more. Ask him to embark on fresh work, even at a high rate of pay, and he will refuse, but what he scorns attracts others. This new country, largely unoccupied, offers favourable prospects to the poor and hard-working natives of India, and they

are gradually invading it.<sup>1</sup> First came the Musalmans of Eastern Bengal, but these are gradually being overtaken by the Hindus of Bengal and Madras, in spite of the sea voyage which threatens them with loss of caste. In 1891 there were 264,500 natives of India proper in Burma, in 1901 the number had grown to half-a-million. The Musalmans are still the more numerous, but the Hindu is gaining on them. Of every 10,000 persons living in Burma, 303 at least are Hindus, and you find them everywhere, from Rangoon to Mytkyina (pronounced Mitchina). The Burman still holds his own in purely agricultural pursuits; but trade and general labour are largely in the hands of the Indians, who are settling in the towns, in the frontier stations, and along the coast, while throughout Burma Hindustani is becoming a necessary language for traders, contractors, and Government officials. Although—an important social factor—five-sixths of these emigrants are males, the Burman would seem as yet to regard this invasion without fear or anger, but his indifference is only apparent. At bottom he is a staunch nationalist; he accepts the Englishman, but he hates the Hindu; and so far as he can he will work only with his fellow-countrymen. If he remains silent it is not due to indifference or resignation, but, what is worse, to sloth. His country is rich; it is easy for him to gain a livelihood or to live on the monks. He has few needs and fewer ambitions, but the gradual eviction he is undergoing must be giving him serious concern.<sup>2</sup>

Nor can the most indifferent spectator contemplate without sadness the possible fate of this handsome,

<sup>1</sup> The population of Upper and Lower Burma was 10½ million in 1901, or 9½ million outside the Shan States and Chin Hills. This latter figure showed an increase of 19·5 per cent as compared with 1891.

<sup>2</sup> See note at end of chapter.

clever, gay, amiable, and frank Burman race, with its great latent possibilities, and its open and free life. What a calamity were it to fall under the sombre and taciturn influences of Hinduism, becoming bound by the exigencies of caste, cloistering its women, and probably before long abandoning its becoming and lively-coloured costume, the gaiety of its towns and villages, and that free intercourse between the sexes which astonishes and delights the foreigner who comes from India.

Besides these internal movements there is migration across and beyond the Indian frontier. India gives a home to more than 500,000 Asiatic foreigners,<sup>1</sup> of whom more than half come from Nepal. On that frontier there is a continuous exchange of population, caused by marriages, purchase of land, and other factors. The most interesting of these immigrants are the Gurkhas, of whom 13,000 are employed in the Indian army and 6000 in the police. Then there are 116,000 Afghans, some settled in the Punjab, others travelling traders, so active and enterprising that you will find them not merely in all parts of India, but even in Australia; 47,000 Chinese traders and artisans, who are principally to be found in Rangoon and Calcutta; and 33,000 Arabs, mainly in Bombay and Hyderabad.

The figures of Indian emigration outside India are less certain. Excluding some 436,000 coolies working in Ceylon, who have been already mentioned, the number may be reckoned at about 900,000. There are about 200,000 Indians, mainly, in all probability, Muhammadans and Buddhists, settled in Afghanistan, in Bhutan, in Tibet, and in Nepal; and there are more

<sup>1</sup> If we include Europeans and other non-Asiatics, the total number is about 1,000,000.

than 700,000 in the West Indies, in South Africa, and in other places—265,000 in Mauritius alone; 126,000 in British Guiana; 85,000 in Trinidad; 66,000 in Natal; 26,000 in Uganda; 18,000 in Surinam; 15,000 apiece in Fiji, Jamaica, Guadaloupe, and Australia; 10,000 in Zanzibar; and about 9000 in the Transvaal and Cape Colony.

One of the most curious features of the 1901 Census is the numerical inferiority of females to males. That is a condition not unknown in Europe, but in India it attains striking proportions. India contains 144½ million women to 150 million men; that is to say, for every 1000 men there are only 963 women. Allowing for the adjustments effected by replacing, for this purpose, persons who have migrated to a province not that of their birth, the deficiency is most marked in the western half of India, and specially in the north-west. In Bengal the proportions are about equal, while in Burma, Madras, and the Central Provinces females are in excess. The excess of males over the greater part of India is difficult to explain. There are no proper registers of civil condition, and the vital statistics are very inadequate. Early marriage and premature maternity tend, of course, to reduce the number of women; and girl children are almost always less carefully tended than boys, and are consequently (except in the Central Provinces where the facts tell the other way) less capable of resisting any special strain such as famine. These considerations are not, however, in themselves sufficient to explain the facts, and I therefore venture to put forward the following supplementary hypothesis. The area in which the excess of males is most marked covers the Punjab, the United Provinces, and the adjoining Native States, including Rajputana, which account

for 4 out of the  $5\frac{1}{2}$  million by which women are deficient in the whole of India. Now in this area the custom of female infanticide, vigorously combated by the English, but only lately completely suppressed, was long prevalent. Girls were put to death at birth in order that the possible failure to find them a husband might not bring disgrace on the father. Is it not possible that this practice has in the long run actually influenced the birth-rate?

The marriage statistics afford fresh evidence of the immense difference between India and Europe. In England, where marriage is common enough, barely one-third of the population are married. In India more than half the males, and nearly two-thirds of the females, are, or have been, husbands or wives, and among the unmarried three-fourths of the males are under 15 and three-fourths of the females under 10. Among men of between 30 and 40 only one in twelve is single, and between 40 and 60 only one in twenty. Among females of 15 and upwards, less than one in twelve is unmarried, and most of these are prostitutes, concubines, or invalids. The statistics of 1901 give the following striking percentages:—

For all ages—	Men.	Women.
Unmarried . . . . .	49.2	34.4
Married . . . . .	45.4	47.6
Widowed . . . . .	5.4	17.9

Between the ages of 15 and 25—

Unmarried . . . . .	51.8	11.3
Married . . . . .	45.8	82.8
Widowed . . . . .	2.4	5.9

Between the ages of 26 and 40—

Unmarried . . . . .	12.5	2.5
Married . . . . .	81.7	80.1
Widowed . . . . .	5.8	17.4

Marriage is therefore the general rule. This applies equally to Hindus and Muhammadans, but the latter marry somewhat later than the former, and the Buddhists later still. The early marriages of the Hindus are due to various causes; but less to climate and precocity than to domestic and sociological ideas. A Hindu wants to marry his son early in order to be sure of having heirs who will perpetuate the cult of the family ancestors and family gods. He wants to marry his daughter to escape the discredit which would be caused to the family by the presence there of a grown-up maiden. The mother, again, desires to marry her son early so that she may the sooner obtain the possession of a daughter-in-law, and form her into habits of obedience.

As regards child marriage, the statistics are stupefying. In India the 1901 Census showed 121,500 married boys and 243,500 married girls whose age was under 5; between the ages of 5 and 10 the figures are 760,000 and 2,030,000 respectively; between 10 and 15, 2,540,000 and 6,585,000. Further, there were no less than 1,277,000 widowed persons under 20, of whom 914,000 were females. Of these, 6000 widowers and 96,000 widows were less than 5 years of age; 37,000 widowers and 96,000 widows between 5 and 10; and 113,000 widowers and 276,000 widows, between 10 and 15. These figures testify to the result of infant marriages, one of the parties to which has died, coupled with the almost general forbiddal of the remarriage of widows in the higher castes. A little girl married, or to speak more accurately betrothed, at 4 or 5 may become a widow at 6 and must remain so all her life!

Monogamy is the general rule throughout India. Polygamy is permitted in theory, but is rare in fact,

and as long as the first wife is alive, a man does not usually take a second. The statistics for India as a whole only indicate 1011 wives for every 1000 husbands, but these figures are somewhat exceeded among the Animists (1031 wives) and among Muhammadans (1021). It does not, however, appear, as might be supposed, that this practical monogamy is the result of the opposition of women to polygamy. The present situation is rather due to economic development; the circumstances which brought about polygamy are passing away.

If polygamy is rare, polyandry is rarer still. It takes two forms. Among certain castes on the Malabar coast the same woman is or was (for the practice is dying out) permitted simultaneous marriage with men of different families. This is what is known as the matriarchal form of polyandry, and its effects are still seen in the law of succession in these regions (as applied, for instance, in the principality of Travancore) where a man's heir is the eldest son of his sister, the succession through the female giving the only guarantee of family legitimacy. Along the Himalayan frontier from Kashmir to Assam, and among the Todas of the Nilgiris, you find polyandry proper, that is, the marriage of one woman to several brothers, and here succession is through the male.

### NOTE TO CHAPTER III

#### THE BURMAN

The Burman is one of the most curious, and at the same time sympathetic, human types which the Indian Empire offers. Burma, which derives its civilisation from China, had kings, but never a *noblesse*; the feudal and aristocratic classes of Europe were there replaced by mere public functionaries, who rose and disappeared according to their in-



dividual merits or fortune. There was no permanent terrestrial hierarchy, and a spiritual one was equally lacking. In the Buddhist religion there is no room for God; there are only men who are working out their own salvation. They know that the Buddha revealed the right path and they try to imitate him, but they have no priests intermediary between God and men. The most notable of their monks, a Sadaw (or bishop), for instance, would not be excused from the duty of begging except by age or physical infirmity, and the veneration which such a man inspires is due simply to the fact that he is supposed to be more advanced than his neighbour on the way to *nebhan* (*nirvana*). The Burman, again, has no caste; he does not recognise the superiority of one man over another, the worth of each depends on his individual acts. With such conceptions he is necessarily independent. He is also suspicious and difficult to handle. Any one who wants to lead him on and make use of him must treat him very carefully and gently, otherwise he will simply disappear without fuss and discussion. If you insist on his improving his methods, or using better tools, he discovers that he is ill or that his mother is dying. Accordingly, the English as a rule hesitate to employ him, for they know that the man who has been working with you for ten years may quit you within twenty-four hours, on a mere pretext and without any real motive. They prefer a Hindu, who, if less naturally intelligent, is more reliable; the Burman is, as they say, too casual.

Further, he is utterly illogical. Our French reasoning, where everything fits into its proper place and leads on to absolute conclusions, is quite foreign to him. Supposing—if it is possible for him to come to such a conclusion—that, comparing the Buddhist cosmogony with our own, he concluded that the former was false, he would not thereby feel bound to condemn Buddhism. He would be both a Buddhist and a Christian, without any consciousness of mental fraud. Thus, though he has been defeated by the British in 1826, 1852, and 1885-6, he thinks none the less of himself. Like the Chinese, he ignores the foreigners' exploits and his own defeats. If the English have come to Burma, it was with the consent of his kings. He admits inferiority to no other people—Chinese, Hindus, or Europeans. The Chinese call Europeans barbarians, the Burman treats us to the contemptuous epithet of *kala* or black. (*Kala* must have been the original term of contempt applied to the dark Hindus of Madras, and from these it has passed to the white Europeans.) And as he has no sense of inferiority, he also lacks gratitude. Why should he be grateful?—he does not know of any benefactor in our sense of the term. If a man is doing good to others, he is gaining merit for himself and thus approaching *nebhan*; why should he be thanked for such a personal profit?

Such is the Burman, and yet, with all his faults, one must needs love him. Whoever employs him appreciates him as a gay, serviceable, and witty companion, with an infectious laugh, who understands everything and can do anything; and that he can be trained and disciplined is frankly acknowledged by the officials who have charge of the convicts in the Andaman Islands. A keen huntsman, and brave when occasion requires, his absence from the British army is due not to distrust of his courage, but to fear of his independence and fickleness. Finally, the people are loyal and, as a mass, incapable of treason.

## CHAPTER IV

### LANGUAGE AND RACES

Immense number of languages and dialects—Principal Indian tongues and their classification—Dravidians and Aryans—Muhammadian invasions—The Mughals: their failure to establish any national unity.

INDIA, I cannot too often repeat, is a world by itself, containing an indefinite variety of elements. I have shown this in regard to the country; I shall now proceed to demonstrate it as regards the population. Unity of population is evidenced by unity of race, religion, and language; here there is not only marked division, there is a crumbling chaos.

The peoples of India speak 147 idioms.<sup>1</sup> Some of those are closely connected in form and origin; others are simple *patois*; many show marked difference in structure and development. You find languages which have arrived at a very high degree of perfection, and which are adorned by a splendid literature; others which are wretchedly poor and gross.

It is not for me to dogmatise on the science of language; but I must lay stress on a remark of Dr. Grierson, who wrote the chapter on this subject in the Census Report of 1901, that in India it is

<sup>1</sup> The European sees with astonishment the sale in the same railway station of booklets in English, Hindi, Telugu, Marathi, and Urdu.

specially necessary to be on one's guard against basing ethnological theories on linguistic facts. The only case in which such a deduction would be admissible is when one sees some tribe clinging to a tongue which is everywhere surrounded by a different language, the latter having already conquered other local idioms. In such a case it is permissible to think that the disappearing language was the original speech of the tribe. Such is the case in regard to Malto, which is spoken by the hillmen of Rajmahal.

We need not, however, take Dr. Grierson literally as regards the number of tongues and conclude that they are all different languages. Sir John Strachey contents himself with distinguishing about fifty of the latter; others, who go back to fundamental types, only acknowledge twelve. Taking as a criterion the number of persons returned under each in the last census, and omitting those spoken by less than a million persons, the principal languages are as follows:—

*Indo-Aryan Tongues: Western Hindi*, prevalent in the Province of Agra and the adjoining portion of the Punjab, and spoken by about 41 million people. Its principal dialect is Hindustani, which is spoken in the country round Delhi. This was carried all over India, where it became a *lingua franca*, by the Muhammadan conquerors, who added to it a large stock of Persian and Arabic words; thus developed it is called Urdu.

*Eastern Hindi*, whose main centre is Oudh, is the language of 22 million persons; *Bengali*, of 44½ million; *Bihari*, of 34½ million; *Marathi*, of 18 million; *Punjabi*, of 17 million; *Rajasthani* (spoken in Rajputana), of 11 million. *Uriya* (the language of Orissa) and *Gujarati* are spoken by about 9½ million persons apiece; *Lahnda* (Western Punjabi) and *Sindhi*,

by over 3 million; *Assamese*, by  $1\frac{1}{3}$  million; and *Kashmiri*, by about a million. The *Pahari* tongues, spoken along the base of the Himalyas, have altogether about 3 million speakers.

The Dravidians formed the bulk of the population of India proper prior to the Aryan invasions, and the principal *Dravidian* tongues now surviving are *Telugu*, spoken by about  $20\frac{1}{2}$  million people in the north of the Madras Presidency and in portions of Hyderabad and the Central Provinces; *Tamil*, the language of Southern Madras, spoken by  $16\frac{1}{2}$  million people; *Malayalam*, spoken by 6 million persons on the west coast of Madras; *Canarese*, which has  $10\frac{1}{3}$  million speakers in Mysore and the adjoining territories; and *Gond*, spoken by more than 1 million people in Central India. The *Munda* languages, which have sometimes been wrongly styled Kolarian, and which are distinct from the Dravidian tongues, are spoken by about 3 million people in Chota Nagpur and the surrounding tracts.

The principal representative of the *Tibeto-Burman* tongues is *Burmese*, spoken by about  $7\frac{1}{2}$  million people. Languages belonging to this family are also found along the frontiers of Nepal and Tibet, while on the north-west side of India, mainly in the Frontier Province, we find more than a million speakers of *Pashto*, an Indo-Iranian language.

We have also to take into account languages such as Persian, Chinese, and Arabic, which are little spoken as vernaculars in India, but which have exercised an immense outside influence there. Persian, for example, the Court tongue which Indian officials residing in certain Native States have still to learn, was, seventy years ago, still the international language of India, as

one might call it, being taught as a second language (as English now is) in schools all over the country.

It should be noted that the Aryan tongues, where they come into contact with aboriginal languages, have generally driven these out, so that they are spoken by great numbers of people who have no claim to Aryan blood. These languages are derived from the *Prakrits* or vernaculars of the early Aryan conquerors or immigrants, one of which, that spoken in the Middle Land (*Madhya Desa*, the country round the Jumna and the Ganges), developed Sanskrit as its literary form.

This great variety of languages, which excludes any idea of unity or nationality, is explained by the history of India, with its repeated migrations, invasions, separations, fusions, intermarriages, and religious differences. The original population of India was, as has been said, mainly Dravidian, and dark-skinned. The fair-complexioned Aryans came in from Central Asia. Their migrations were probably very gradual; but Dr. Grierson and Mr. Hoernle distinguish two main streams, the latter of which, descending into the *Madhya Desa*, struck like a wedge into the mass of previous Aryan immigrants and scattered these latter around it from the Punjab to Rajputana, Gujarat, and Bihar. Further advances east and south took place later.

The early Aryans resembled the contemporary Greek and Latin peoples in having an organisation based on the family, the head of which was at once husbandman, warrior, and priest. Advancing civilisation brought about specialisation and, in India, the caste system, of which I will speak later on. It will suffice to say here that while caste is largely based on occupation, its primary *raison d'être* is birth, the necessity of preserving purity of blood. A man is born a Brahman,

for instance, and may not become one; nevertheless, you see in the south of India dark-skinned Brahmans who are clearly of Dravidian origin. The explanation is that the Aryans, who originally established themselves in the north of India, migrated there in whole tribes. When later on they pushed towards the distant south, it was probably as scattered individuals with few women. Settling down there, they were bound to marry the daughters of the Dravidians, and from such marriages sprang children of mixed blood, styling themselves Brahmans like their fathers, but half-Dravidian, and (though acquainted with Sanskrit) speaking the language of the country. Later on, when Buddhism declined, the northern Brahmans came south in larger numbers, but acknowledged their dark-skinned kinsmen.<sup>1</sup>

The physical differences between Aryans and Dravidians are very marked. The former are a tall, light-skinned, shapely-nosed people; the latter, squat, dark, and flat-nosed; and this contrast must have been even greater 2000 years ago, as one can see from the sculptures which have survived. Unlike as they are, however, Aryans and Dravidians make up the bulk of the populations of India proper.

To these we must add a Mongoloid element in the north-east, extending into Bengal; Scythians, who came in from the north-west; and finally the successive Muhammadan invaders, Arabs, Pathans, Turcomans, and Persians, ending with the armies of the Mughals. The original Muhammadan incursions were pillaging raids, but these were succeeded by regular invasions

<sup>1</sup> Religious struggles such as those between Buddhism and Hinduism may help to explain linguistic phenomena. Thus, in Bihar, the birthplace of Buddhism, we find people who are physically alike speaking different tongues.

and permanent settlements, and by the conquest of almost the whole of India, terminating in the Empire of the Mughels.

In Indian history the Mughal appears on the whole as a civiliser, but he was not able to raise that fine flower of civilisation which we call a nation. At times he succeeded in combining the conquered against him, but he never brought about real unity. Sikhs, Marathas, Rajputs, his own Musalmans, led by revolting lieutenants, rose against him, separately or in combination; but not one of them spoke in the name of what we should now style independence or patriotism; none was able to constitute a nationality. Even the Marathas, who approached nearest to this ideal, scattered themselves over too vast a territory, and were too much given to plundering, to attain to such a conception.<sup>1</sup> Not only has India never been a single nation; she has never, like Europe, witnessed the formation of one of those conquering tribes which, agglomerating to itself outside elements, constitutes at a given period a people with a common soul. Her physical features, her races, her languages, and her history have doomed her to variety; and if there should ever emerge a homogeneous Indian people, with a single language and a common patriotism, she will owe this to Europe. Not to the Portuguese, the Dutch, or the French, who only contributed to overthrow the Mughal Empire, but to the British, who, when delivered from European rivalry, undertook, willingly or unwillingly, the conquest of all India. They hold it to-day from north to south under their direct adminis-

<sup>1</sup> As to the Sikhs, they were but a band of conquerors dominating subject peoples, and a Sikh has to become one by initiation, he does not enter the community by birth.



tration or their protectorate; and by their laws, their justice, their administration, and their education they are tending to modify the character and level the differences of the Indian peoples. It may be that in the course of ages a single Indian type, a sole Indian nationality, will thus be produced.

## CHAPTER V

### RELIGIONS

Method of treatment—Statistics—Hinduism : its dogmas, practices, and institutions—Ancestor worship ; the sanctity of the cow ; respect for animal life—The Brahman, his rôle and importance—Spread of Hinduism ; the Hindu pantheon ; creation of gods ; national and local deities ; superstition—Animism : its sphere and importance—Religious condition of the people ; scepticism and superstition—Hinduism as a political creed—Theosophy—Indian pantheism—Islam : its distribution in India—Relations of Islam and Hinduism, ascetics and astrologers, *sadhus* and *pirs*—Rivalries and hostilities between Hindus and Musalmans : their relative loyalty—Buddhism as a moral code ; its doctrines ; *nebhan*—The Buddhist clergy and laity ; decline of the faith—Jainism—The Sikhs—The Parsis : their small number ; their present condition and rôle—The native Christians—Conversions and their consequences ; condition of the converts ; the missionaries of various creeds—Conclusion : the religious policy of the British ; their tolerance and impartiality.

RELIGION, I need hardly say, cannot be treated in a work like this from the philosophic point of view. Those who are interested in the history of religions, in the evolutions of dogmas and the succession of systems, or in the conception which the peoples of India have formed of the origin of the universe or the destinies of man, will find nothing to satisfy them in these pages. The Indian religions are here considered simply with reference to the influence that they may exercise on politics and administrations for which reason I shall

not treat of those which are now dead, such as the Vedic creed and Brahmanism, while those still existing will be dealt with not in their historic order, but according to their present importance.

Let us start with a few statistics. There are at present in India two great religions and several little ones, counting creeds as great or small according to the number of their adherents. Hinduism, a partial and unfaithful inheritor of Vedism and Brahmanism, has 207 million followers, of whom  $48\frac{1}{2}$  million are in the Native States; Islam,  $62\frac{1}{2}$  million, of whom 8·6 are in the States; Buddhism,  $9\frac{1}{2}$  million; Animism,  $8\frac{1}{2}$  million, 2·7 being in Native States; Christianity, 3 million; Sikhism, 2·2 million; and Jainism, 1·3 million. The Parsis number 94,000, the Jews, 18,000, and various other creeds make up 130,000 followers between them.

Of the Hindus, 46·7 million are found in the old Province of Bengal; 40·7 in the United Provinces; 34 in Madras; 14 in Bombay. Among the Native States, we find 9·8 million Hindus in Hyderabad, although it is ruled by a Musalman prince; 8 million in Rajputana; 6·9 in Central India; 5·1 in Mysore; 5·7 in the States dependent on Bombay.

The Musalmans number  $25\frac{1}{2}$  million in Bengal, mainly in the eastern portion; 10·8 in the Punjab, or 14 million if we include the recently detached Frontier Province;  $4\frac{1}{2}$  million in Bombay; 7 in the United Provinces;  $1\frac{3}{4}$  in Assam;  $2\frac{3}{4}$  in Madras. In the Native States, they number more than 2 million in Kashmir, 1·3 in the States of the Punjab, 1·1 in Hyderabad, and nearly a million in Rajputana.

Of the  $9\frac{1}{2}$  million Buddhists, 9·2 million are found

in Madras—1 million in the Presidency proper, and nearly as many in the dependent Native States; Sikhs are practically confined to the Punjab, and the Parsis to Bombay.

All these figures were carefully worked out in the Census of 1901; still it is possible that errors have crept in which the enumerators had not always the power or the will to avoid. Hinduism is a catholic religion, which tends to absorb creeds that are not essentially different from itself, such as Animism, and is, in fact, attracting a number of their followers, so that in many places an enumerator might, according to his personal preference, swell the number of Hindus at the expense of the Animists, or *vice versa*. Then, again, for social reasons, votaries of religions which are clearly marked off from Hinduism, such as the Indian Buddhists or the Jains, sometimes prefer to pass as Hindus, and declare themselves accordingly.

The Hindus are less numerous than in 1891, but that is due, not to the decline of their religion, but to the fact that between 1896 and 1901 the Hindu population was severely affected by famine. Moreover, owing to some of its prescriptions—such as premature marriage, which often renders women unfertile, and the prohibition of widow remarriage—Hinduism hampers the rapid multiplication of its members. Nevertheless, it still dominates India, and, taking the country as a whole, seven persons out of every ten are Hindus. In Orissa, Mysore, and Madras this proportion rises to nine out of ten, and it is eight-tenths in Bombay (outside Sind), in the Central Provinces, in Rajputana and Central India, and in Bihar. The only regions in which Hinduism is seriously held in check are in the north and east of India, where it finds rivals in Islam and Christianity.

religions, and occasionally in Buddhism; but even as regards these two latter its hour of triumph is at hand. For Hinduism is gaining and encroaching. An eminently plastic religion, it remains a unity in spite of its division into mighty sects, and it possesses the faculty of deforming and appropriating the dogmas of others. At the Congress of Oriental Religions at Tokio, Hindu orators endeavoured to demonstrate that Hinduism and Buddhism are really identical, though their identity has been masked by foreign growths. Hinduism has no originality; it is a sort of neo-Brahmanism—a floating mass of beliefs, opinions, customs, practices, and social and religious ideas, without any definite commencement, without any clear break with the past. It is constantly repeating itself; it brings forward truths thirty centuries old, which, forgotten for a time, reappear to yield place once more to others, and to re-emerge later on. It has none of those clear cut *credos* which raise an insurmountable barrier between rival faiths. Its dogmas, if it had them, would be the divinity of Krishna, the acceptance of the *Bhagavad-Gita* as a sacred book, the sanctity of the cow, and respect for animal life. Its chief practices are ancestor worship and pilgrimage; its institutions castes, of which the first is the Brahman. Nothing in all this is of a character to drive people away from Hinduism, and the Brahman is generally accessible to transactions and compromises. Respect for animal life prevails throughout a great part of Asia, the caste system may assist the social progress of the individual, and ancestor worship is common to more than one creed.<sup>1</sup>

<sup>1</sup> The metaphysical basis of religions which are based on belief in the surviving soul has, according to Sir Henry Sumner Maine, passed through three stages. First, the worship of ancestors, whose spirits are supposed to

Ancestor worship is practised by the immense majority of those who call themselves Hindus, over whom it exercises an enormous influence. Hinduism, it must never be forgotten, is essentially a social system, of which ancestor worship forms the religious and most sacred side. Infraction of other rules may be atoned for by penance; not so neglect of ancestors.

The ancestor thus honoured is ordinarily the one who has most recently died—the father. With him are joined the grandfather and practically all those whom the living heir has known, for the worshipper here is the heir, and it is as such that he worships. A man cannot die in comfort unless he leaves behind him an heir of his own, an agnate who will honour his memory. If he has none of his own blood, he adopts one and leaves him his property, but on condition of receiving reverence after death, so that between them there is a practical contract, and for the living heir to break it is to expose himself to the execration of the dead and even of the living, to say nothing of a legal action.<sup>1</sup> And among several heirs, partition is only legitimate as long as each shows equal honour to the memory of the common ancestor, a principle which has been supported by legal decisions.

Ancestor worship is costly. In China, where it also flourishes, it has been estimated that the three great festivals of the dead cost the country 150 million dollars a year, while in India the cult is sufficiently expensive to have hitherto prevented legacy or succession duties. It is a general and imperative rule, one of the main pillars of Hinduism.

purgatories where souls expiate sins committed in life; third, and this too is a form of expiation, the passing of the soul into fresh bodies.

<sup>1</sup> Compare the Roman *actio familiæ eriscundæ*.

Another of these pillars is belief in the sanctity of the cow, which is only a specific and exaggerated application of the general respect for animal life. That, again, is a belief common to a large part of Asia ; Buddhism accepts and emphasises it as much as Hinduism. It probably springs from the belief in the migration of souls, and also from the *avatars* (incarnations) of deities — Hanuman, the monkey-god ; Ganesh, the elephant-god, etc. It does not, however, it must be remembered, carry with it respect for human life, or the obligation to treat animals kindly ; it only forbids their being put to death. In its application to the cow it has had serious political and social consequences. I do not refer here to the great mutiny of 1857, to which it furnished only one pretext among many ; and those persons deceive themselves who maintain that the British dominion might have been consolidated for centuries if in its early years the killing of a cow had been made a capital offence. It is indisputable, however, that, even to-day, Hindus are roused to indignation by the slaughter of cattle for the feeding of British troops, no matter whence the cattle may come from or where they may have been killed. Not long ago some soldiers in the Transport Corps, marching up to Simla, became mutinous because they were ordered to convoy Australian preserved beef. In the State of Gondal in 1872, and again in 1903, the Hindus claimed to forbid their Musalman compatriots to eat beef, although these had enjoyed this right without contest for more than a century. In the north of India, not far from Simla, the Raja of Koti, in selling an estate to a well-known Englishman, insisted that no slaughter-house should be raised there. At Simla, when the British established themselves there, it was unlawful to kill oxen and cows ; it was only about 1840 that this

permission was given, and that on condition that the slaughter should be private. And not long ago, when the Principal of the Veterinary College at Lahore permitted or enjoined the *post-mortem* examination of animals, including cows and pigs, by his students, he thereby aroused the indignation of the Hindu press of Bengal.

From the cow, this protection tends (as has been said) to spread to the whole animal creation. In Burma, a mother will throw away unharmed a scorpion that has just stung her child, and when the rivers flood their banks and withdraw again, fish which have been left in the fields are put into jars and cast back into the water. When, some twelve years ago, plague began to spread over India, and the rats were supposed to be a medium of infection, the Municipal Committee of Amritsar offered one pice (a farthing) for each rat taken alive, proposing to keep them in safety and release them again when plague should have disappeared. Birds of all descriptions swarm, for there is no one to destroy them but Europeans and nomad *shikaris*; and though they steal millet and rice in abundance, the peasants content themselves with chasing them away by shouting. Crowds of crows at times render the large towns intolerable. A butler, from whom they were stealing everything, once captured one in a snare, but let it fly again in the evening. A society in Bombay has protested to the Governor against the feathers which adorn ladies' hats. In Burma, the dogs have become so numerous that they wander through the country without a master and without a home, fed by the monks from the offerings which these receive.

As a consequence, the confidence of the animals is touching; the picturesque, bushy-tailed squirrel is fear-



less, and with good reason; a dog lying in the sun almost refuses to rise in order to let a carriage pass; the vulture in Bombay, the peacock in the United Provinces, the monkey everywhere, will approach within gun-shot. For that matter, the natives hardly use guns; sport is not consistent with their religion. Buddha said that we should have pity first on animals and then on fishers and huntsmen. He also said, "Any one can take away life; One only can give it."

Next to these two articles of faith, ancestor worship and respect for animal life, the dominating factor in a Hindu's life is reverence for the priest, the admitted superiority of the Brahman. From this aspect Hinduism is pure sacerdotalism, and might, indeed, still be termed Brahmanism. In every Hindu family a Brahman presides over all the functions of life. A marriage, the building of a house, a journey, an illness, a harvest, above all, the meat and drink whose purity must be assured—everything furnishes a pretext for calling in the Brahman. But it must be noted that his presence on such occasions does not constitute a religious intervention; he does not, like the Christian priest, claim to be an intermediary between God and man. Nor, again, does he on such occasions give religious instruction; he is simply the man who *knows*. He knows the language of the Vedas, which the common people are ignorant of; he knows the sacred texts and their meaning (the history of the old Roman law furnishes an interesting parallel here); and he places his knowledge at the disposal of others for a consideration—money, food, or lodging. His principal and constant rôle is to test the purity of food; he preserves you from pollution and from its consequence, fall from your social rank. That, in a caste system, is a matter

of such capital importance that every one thinks it necessary to reverence and pay the Brahman, and by his assistance to avoid contact with what is impure.

Hinduism is the ideal of a ceremonial religion. Its rites have a force of their own quite apart from the morality of the worshipper. It is not necessary for the latter to believe in the gods or the dogmas of Hinduism; it suffices to behave as if he did so. The sanction, that is, is a social and not a religious one. And, as a social system, the authority of Hinduism is prodigious. You find, for instance, in the north people (the Lahoulis) who are Buddhist by creed, Hindu by observance, while in the south there are Vellala Christians, and for that matter some Brahman Christians also, who still hold to the caste system.

It is thus easy to understand the absorbent qualities of Hinduism, which has gradually invaded and conquered almost the whole of non-Aryan India, and that not because of a rational change of faith by the outside peoples, but through their ambition to rise in the social hierarchy by following its prescriptions. It may be objected that a man is born a Hindu and does not become one. No doubt; so, too, in Europe one is born noble, but a man may also—apart from specific ennobling by the sovereign—become so by clever usurpation. An Indian who is by birth entirely outside the pale of Hinduism can nevertheless enter it, as will be shown in treating of castes.

As a consequence, the Hindu pantheon is getting very crowded. On its theological side Hinduism has two aspects: for a select few it is pantheism; for the masses, as has been said by Sir Alfred Lyall in his *Asiatic Studies*, it is a strange medley of superstitions; of gods, demons, phantoms, deified saints, demi-gods,

gods of the hearth and gods of the tribe, gods local and gods universal; deities who are absurd, atrocious, fabulous, ridiculous, magnificent, humane, mild, or cruel; deities which hold in horror the death of an insect; and deities who are honoured by sacrifices of animals and men. It is a religion remarkable for its heterogeneity, fed as it has been from so many different sources; and by its aptitude for swelling its stock of beliefs and practices by borrowing from the lowest depths as well as on the loftiest heights.

And its creation of gods is not only a matter of past history; it is an abiding contemporary phenomenon. Holy men, performers of miracles which were disputed, or even ridiculed, in their lifetime, are after their death transformed into gods; men who were personally known to many of those now living are to-day honoured deities in more than one part of India.

As regards the creation of deities in the past, there are two theories. According to one, the ancient Aryans assigned a name and a form to the forces or phenomena of nature. Light, for instance, struggles against darkness; light is one god, darkness another; and similarly in regard to wind, thunder, and other forces. Then, these gods are deemed to have become incarnate in men who are supposed to have lived upon earth in known places, whose lives have been written, and who have been deified after death. The second theory, Euhemerism, is as follows: A known man, living in a known place, has distinguished himself by lofty ideas or actions which impress public opinion; legend takes possession of them, exaggerates them, and amplifies them to a point at which they become superhuman. At this stage they are attributed to a god, and to this god is given the name of one of the forces of nature.

But it is not the national deities, gods taken from Sanskrit literature and the great epics, who are the most powerful to-day. Vishnu, Siva, Krishna, Rama, and others are, it is true, honoured all over India; every peasant knows their names. But he does not turn to them in his hours of distress or piety; it is not to them that his daily thoughts go out. These are consecrated to nearer deities, to the local gods of the hill, village, or grove. It is difficult to imagine the place these godlings occupy in his life; he fears them and endeavours to render them propitious; he offers them sacrifices, and if they require it, would be prepared to gorge them with human blood. And the more feeble the race, the more it dreads its gods and the more blood-thirsty it conceives them. Its sole resource against them is that, as they are really superhuman men, one may hope to find them subject to human passions and weakness; that they may be flattered or deceived.

But it is not only the gods who are dreaded; other superstitions hold men in terror. Animals and things are also formidable. Serpent deities creep about, threatening and disturbing; a thousand inanimate objects may cause the evil eye. There are, moreover, lucky and unlucky days, Saturday and Sunday, for instance, being among the latter. This fear of beings and things engenders a new religion—Animism. Animism appears in two forms: belief in spirits who people earth and air and who will appear spontaneously or on invocation (spiritism); and in spirits who for a time, or always, dwell within animate bodies or inanimate objects (fetichism). To this double belief the popular mind has added a third, which is also styled Animism, but might also be termed dynamism, a belief,

that is, in simple forces, sometimes feared, sometimes loved.

In fact, says an official document, the current opinion is that man is surrounded by an indeterminate multitude of spirits and powers, some abiding in rocks, water courses, fire, trees, and wild beasts, and others, one knows not where, and some of whom are emphatically maleficent agents. These must be rendered propitious by offerings and ceremonies in which magic plays an important part.

Officially, there are  $8\frac{1}{2}$  million Animists, but the real figure is much larger, for orthodox Hinduism has admitted Animism; the Brahman attempts to explain it and to place it in accord with his dogmas. Animism, avowed or concealed, has thus many millions of real adherents among those who are styled Hindus, and the census takes no account of these. The Animist, too, is often ashamed of his belief, and claims to be registered as an ordinary Hindu.

Nor is it only among the Hindus that crypto-Animists are found; relatively speaking, there are as many among the Buddhists. Buddhism is too pure and lofty a doctrine for the mass of mankind, and is at the same time ill-adapted for a life of struggles, so that the ordinary Burman may be said to have two religions, Buddhism for show and Animism for daily practice.

Returning to the persons officially returned as Animists, these are relatively strongest in Assam, where they number a million, or one-sixth of the whole population. Absolutely, however, they are most numerous in Bengal, where there are nearly 3 million of them, and next in the Central Provinces, where they number about 1,800,000. There are 900,000 of them in Central India, and 650,000 in Madras.

Spirit worship presses heavily on the purses as well as the lives of the people of India, for the astrologers are ready to exploit their terrors. Does the Indian desire to work, to buy cattle, to know what day is propitious for such and such an enterprise, he consults the astrologer, who counsels and fleeces him. Travel in the mountains of Kashmir, for instance, and ask well-informed people what his faith in spirits costs the peasant, and you will be told that year in and year out it amounts to many rupees. Do not let us make too merry over his credulity. These spirits, *nats*, as they are called in Burma, are what are styled in our liturgies powers, principalities, dominions, and thrones. All religions have nomenclatures of this sort, a heritage from a time when people were ignorant of the one God and worshipped the forces of nature; and the Hindu who honours the Mahadeo under the phallic symbols of the Lingam and the Yoni is not very different from David dancing before the Ark. Later on, you secure progress through criticism and discussion; the original dogma becomes purified, and reaches out on the one side to Buddhism, with a morality so noble that it handicaps its votaries in the struggles for existence, on the other side, to Pantheism, the absorption of man in God.

To-day, if we could penetrate the minds of the most cultivated classes of India, a very minute proportion, however, of the total population, we should find a huge scepticism, something like the Voltairism of Europe. The modern Hindu student, who has just left the University, believes little in God or creation, and not at all in incarnation and revelation. He hates priests and loathes the sacerdotalism into which Hinduism has developed. He has no real religious wants; for him

religion is not a matter of faith, but of patriotism. There is now, in fact, a national party to whom everything that appertains to ancient India is sacred. Hinduism through its various *avatars* reaches back to a hoary antiquity; accordingly, one must believe in it or pretend to do so. This new tendency has been coincident with the revival of Sanskrit studies. These studies resulted in a movement of admiration for the Vedas, for the grandeur of the Aryans and ancient Indians, and for Max Müller, the illustrious scholar to whom so many noble discoveries have been partly due. But at the same time, such studies have necessarily rendered present-day Hinduism, with its local idolatries, unacceptable to the really enlightened.

Mere negation does not, however, suffice; if Hinduism is to be swept away, by what shall it be replaced? By Christianity? That has been thought of and advised by some. "The Bible and the morality of Jesus," they say, "is what we must study. Whom can we compare to Jesus? Among the Hindus only Rama, and nothing in his history is credible. The Bible would be better." These counsels, however, have not been followed, and could not be. New India could only admit a national religion. So people looked about them and arrived at different religious movements, which are very interesting in themselves, but have hitherto been without influence on the masses.

There was first the foundation of various sects, which, however, remain Hindu, the Brahmo-Samaj and the Arya-Samaj. Their influence, however, is rather moral and social than religious, and I shall speak of them in connection with social reform. One might almost describe them as an attempt at morality without a personal God, a comfortable half-way house between

Hinduism and Christianity, with occasionally a simultaneous acceptance of Jesus, Muhammad, and different Hindu prophets. From a religious point of view they are chaotic.

Then, later, there has been the Theosophical movement, now represented by Mrs. Annie Besant. It is a doctrine well adapted to please Indian nationalists, since it rests on unbounded admiration of their old sacred books, and tends to justify everything there which seems ridiculous, vulgar, or obscene, giving a benevolent interpretation to certain absurd practices that it affects to consider as symbols, masking saving truths. Such a doctrine flatters Hindu vanity, proud of its sublime antiquity. But like social reform, Theosophy addresses itself only to the literate and does not touch the masses. These have no real religion; for them Hinduism is practically only a gross paganism, powerless to elevate and guide its followers.

In another direction, a very small number of elect souls have taken refuge in metaphysical doctrines, of which the analysis of the *Bhagavad Gita*, given in Note I. following this chapter, will furnish some idea. They tend to Pantheism. But the Pantheism of India is not that which in the nineteenth century attracted a portion of philosophical Europe; it rests upon the teachings of the *Bhagavad Gita*. Man must endeavour to escape from himself, to arrive at the basic substance, at the universal soul, at the primitive *âtman*. What is this *âtman*? It is the principle of life which is in man; it is that which animates nature. In man it is the breath (*prâna*); in nature, the air or the ether. According to another doctrine, the *âtman* of man is the *homunculus*, which, making its way through the arteries, takes up its abode in the pupil of the eye.



The *âtman* of nature is the sun. Finally, the *âtman* is the real *ego*. When man has purged himself of vanity, ambition, desire, and such-like accretions, there remains the pure *âtman*. So understood, the *âtman* is God, dwelling on the borders of the external world and internal consciousness. And this God, who is ourselves, who is the universe, is the being in whom we shall at length be absorbed, when, after thousands of lives, we shall conquer the right to live no more. That is *nirvana*; the *nebhan* of the Burman.

One sees the difference between this Hindu Pantheism and that of Europe. The European creates his God. Man arises by himself; he enlarges his desires and his outlook; he animates the universe; and, at a given moment, he confounds the universe and himself in a God whom he imagines. That is Pantheism the child of effort. The Pantheism of India, on the other hand, is return to God. Man arises from sleep and meditation; he consents to live; he lives a thousand times; he acquires merit, and thereby raises himself in the hierarchy of the deserving; passes through periods of halt and rest; and having finished his struggles, re-enters for ever into the primitive substance, arrives at non-being as the supreme recompense of his efforts. He is absorbed in the universe and in God. That is a Pantheism which springs from lassitude and desire for eternal rest.

If this Hindu Pantheism, which is a superstition among the masses, a lofty philosophy among the *élite*, were blindly followed, it would prepare the masses for the domination of foreigners and lead the *élite* to withdraw from action. But if philosophies set forth systems, it is for the populace to accept or reject them. More than one people has evaded or withdrawn from

the teachings which have been imposed upon them, and the success of a nation, at least in Asia, is measured by the energy with which it has shaken off a doctrine which is fatal to action or struggle.

Hinduism, in its various forms, dominates 207 million of the inhabitants of India, and I have endeavoured to give some idea of the influence which it exercises over their thoughts and attitude, and in consequence over the policy and the methods of administration of their British rulers.

Islam, less subtle and better known than Hinduism, allows of less development. It has 62 million adherents in India, their number having increased by 9 per cent between 1891 and 1901. The reasons for this increase, in a period during which Hinduism lost in numbers, are not far to seek. The regions where Islam is specially strong were not affected by famine. The Musalmans, again, marry their daughters later than the Hindus; they permit the remarriage of widows, indulge in a meat diet, and, for these reasons, show a higher birth-rate than their Hindu neighbours. Finally, while Hinduism is exposed to loss at the hands of Christian missionaries, Islam does not thus shed its adherents; on the contrary, it is itself a propagandist creed.

These 62 million Musalmans are to be found chiefly in the north and the east. There are  $25\frac{1}{4}$  million of them (32 per cent of the population) in the old Province of Bengal, mainly in the eastern districts, and 12 million (53 per cent of the population) in the Punjab. In the North-West Frontier Province they number  $2\frac{1}{2}$  million (against only 134,000 Hindus); in Kashmir, 2,150,000 (70 per cent of the population): 1,580,000 of them (26 per cent of the population) are in Assam;

3 $\frac{3}{4}$  million (18 per cent) in Bombay, mainly in Sind; 6,730,000 (14 per cent of the population) in the United Provinces; 2 $\frac{3}{4}$  million in Madras; and more than 1 million in Hyderabad. The south and west of India were not deeply influenced by the Musalman conquests; and the Muhammadans are strongest in Sind, the Punjab, and the Frontier Province, the highroads of the Afghan and Mughal invasions; and in the east of Bengal, where they were able to make numerous and facile conversions among peoples who at the time of the Musalman conquests had not yet been Hinduised.

A large proportion of the Musalmans of to-day are thus of indigenous origin, and their ancestors were, as a rule, detached from their original creed by force of interest rather than by conviction. Consequently, their faith is often tepid, and they remain Hindu in many respects. To find Islam in its real purity and strength, you must go to the north of India. There the Muhammadans are more closely concentrated, especially in the towns, and are also more ardent and strict. Rigid observance of their creed is often, too, a method of social advancement; a rich man who desires to rise in society commences by a show of piety, redoubles his prayers and penances, makes pilgrimages, and finally aims at sanctity. In other parts of India, where the Muslims are more influenced by the neighbourhood of the Hindus and the persistence of ancestral traditions and practices, they often arrive at a practical combination of the two religions: they receive the mullah as their forefathers received the Brahman. Sometimes the two creeds have common shrines; for instance, a well-known place of pilgrimage near Sukkur, on the Indus, has two approaches, one for Musalmans

and the other for Hindus. More than one social institution, again, evidences the reciprocal influences of the two creeds; the Hindu *zenana*, for instance, being clearly borrowed from the Musalman *harem*. The ties connecting the two religions have, in fact, become so strong that to-day one cannot do anything in such a matter as social reform, for instance, without having to negotiate with both parties, which involves a waste of time and strength.

From another point of view, Hindus deplore the intervention of the English, about the beginning of the eighteenth century, when the Mughals were tottering to their fall. The Sikhs and Marathas and Gurkhas would, they hold, have finished by crushing the Musalmans. Only a few millions would have been left; and as Central Asia, the reservoir from which they had previously drawn fresh strength, had now been depopulated, the small, isolated Muhammadan groups would finally have been absorbed in the Hindu mass. That is, as I have said, a Hindu thesis; the British, who have based the uneasy security of their dominion on the divisions of their subjects, naturally look at matters from a different point of view.

Like all religions, Hinduism and Islamism possess their sects, their rites, and their clergy. They possess, however, a more interesting non-official *personnel* which every now and then gives trouble to the administration—mountebanks, astrologers, ascetics (*sadhus* and *fakirs*), *pirs*, and *ghazis*. Most of them might be classified as fanatics, and a large proportion of them are also swindlers.

The mountebanks may be described as “general utility men”—doctors, charlatans, and pandars. The astrologer lives on the piety and credulity of his *clien-*

*tèle*, which he recruits from all ranks of society, and whose life he regulates.<sup>1</sup>

The Hindu ascetics or *sadhus* are legion, and their control over public opinion is absolute. The Indian honours the ascetic above any hero, warrior, or puissant prince, and this cult is of ancient date. Alexander found it flourishing in the fourth century before Christ, before his time Sanskrit literature is full of ascetics and their power,<sup>2</sup> and the ascetics of to-day are equally revered. They are of more than one class. Some are men of decent behaviour and true piety, comparable to a Saint Theresa or a Saint Philip Neri. Others are clearly charlatans. With forehead and hair smeared with ashes, the breast bare or covered with weird rags, their necks adorned with rosaries, or necklaces of brilliant stones or gilt buttons, with dull eyes, arms encircled with bracelets of iron and copper, and a white shell conch—they seek for picturesque spots, which they will transform later on into places of pilgrimage,<sup>3</sup> or betake themselves to shrines already known. They settle themselves there quietly and without permission, and if a landlord endeavours to make them move on they invoke prescription. There, loaded with chains,

<sup>1</sup> I know of a great noble, dwelling near one of the most celebrated places of pilgrimage in India, who would not think of undertaking a journey without the advice of his astrologer.

<sup>2</sup> The *Mahabharata* relates the story of two brothers who were desirous of subduing “the three worlds”—the earth, the sky, and the lower regions. They clothed themselves in rags, let their hair grow, smeared themselves with ashes from head to foot, and fled to the solitude of the mountains, to endure the privations of hunger and thirst. For years, standing on tip-toe, with their hands raised to heaven and their eyes wide open, they tore from their bodies morsels of flesh which they threw into a fire. In vain did the gods endeavour to make them cease these austerities; they had at last to give them the powers and privileges which they sought. Then the two ascetics returned to their own country, and lived there merrily. Legend relates that they had so much power over nature that they forced the moon to shine on their town every night.

<sup>3</sup> See Note II. at end of chapter—*Pilgrimages*.

or lying on a bed bristling with nails, they await or call for the alms of the people. When occasion requires they play the nationalist, and if a European appears they meet him with insolent looks and gestures.<sup>1</sup>

These *sadhus* are recruited among religious enthusiasts; but also among those who would otherwise fail in the struggle for life. Wretchedness or vanity drive them from the world, not the love of poverty, for in past generations there have been *sadhus* who were travelling traders, ranging from the Ganges to Nepal or the Deccan, whose piety at once served them as a passport and procured them large profits. At the present moment, if the Census of 1901 is to be trusted, there are in India not less than 5,200,000 *sadhus*, and persons of like character, who live by begging. Taking the cost of their upkeep at the low average figure of Rs.3 a month, this means an annual tax of £12,500,000, which the workers of India pay to the drones.

If the Hindus have their *sadhus*, the Muhammadans have their *pirs*. Like the Hindu temples, the mosques and tombs of Muhammadan saints attract crowds of mendicants. By the grave of a saint alms-giving becomes a duty, however small the alms may be. You may see women offering minute fractions of a penny, but these cowries are reinforced by pice, by annas, and rupees, so that the tomb of a saint is worth much to a locality. Sir Alfred Lyall tells of a Pathan tribe who

<sup>1</sup> Some of these ascetics have strange histories. There was one at Benares some years ago, Swami Bhaskarananda Saraswati, a scholar and a gentleman, whose reputation for holiness was so great that temples were built in his honour during his lifetime. Near Simla there was a well-known French *sadhu*, called Charles de Russette, who used to go about clothed in leopard skins. About 1899 there arrived an American anchorite (of French origin, said the Anglo-Indian papers) who had been converted to Hinduism at the Congress of Religions at Chicago.

strangled a saint who was living among them, so as to make sure of having his tomb in their territory.

The Muhammadans have also produced *ghazis*, or fanatics, as they are more frequently styled now. These have been represented as madmen or as patriots; but they are neither. They are usually outlaws, men who for some crime have lost the right of shelter. Driven away from their family or tribe, tracked by the police, not knowing whither to fly, with death staring them in the face, they resolve to redeem their sins by killing a *Rumi* (European), and then die cheerfully.

*Sahhus* or *pirs*, mullahs or Brahmans, all, whatever their methods, are agents who maintain and stimulate religious faith in the peaceable and naturally indifferent mass of the Indian population; and as Hindus and Musalmans are in contact at hundreds of places, it often happens that, under the hands of these instigators, religious zeal degenerates into sectarian rivalry, and hence into quarrels which sometimes assume the character of serious riots. The great grievance of the Hindus against the Musalmans is that they kill and eat cows. In this and other ways explosive material is gradually stored up; given a spark, and the mine will explode. The least pretext will suffice: some calamity which excites the populace; a conflagration which each side accuses the other of having started; epidemics; deaths sent by spirits irritated by the presence of infidels; a feast which one creed celebrates at a time of mourning, and fasting for the other; for instance, a Hindu marriage during the great Musalman fast of the Mohurram. Every marriage necessitates a procession from the house of the bridegroom to that of the bride, with musicians, elephants, if these can be afforded, and a cortége. In vain will the authorities,

foreseeing trouble, have prescribed an itinerary for the procession, or have forbidden music. The fanatical and warlike Musalmans are on the alert; they oppose, with shouts, the progress of the procession; *lathis* (bamboos tipped with iron) come into play; the police have to intervene and attack the mob. There are deaths, wounds, arrests, and men condemned to jail for two or three years, and the result is a neighbourhood cursed for years by a sort of civil war.

There are constant scenes of this description, but it is maintained that they are beginning to diminish, and that the two creeds, instead of fighting one another, now tend to unite in common political action. Hindus and Musalmans (though here the latter are still very few) meet together at the National Congress; they work in the same journals, found reviews of like character, and cover each other with compliments. Such union has excited great hopes. Here, it is said, we, for the first time, see the idea of a nation; something great is bound to come of it.

It is true, no doubt, that the *élite* of the two religions understand the utility, and even the necessity, of agreement, and are ready to work towards it; but before 1870 there were also, on both sides of the Rhine, men eager for fraternity. Their number was, however, very small, and the war reduced it still further. So, too, in India there is the barrier of a long past between Musalmans and Hindus, and they are still kept apart by their ambitions, their aptitudes, and their tastes. The Musalman is by nature a warrior, relying on force and respectful to the powers that be; the Hindu is supple, fond of trade and letters, and eager to rise. Even in childhood, when they meet in mixed schools, their benches are separate and their food different.



Will a common dislike of the European succeed in suppressing and bridging so many difficulties and differences? The English refuse to believe in such an alliance, and it is not for me to decide whether they are right. The present tension between Hindus and Musalmans in Eastern Bengal is, however, significant. Many of the English, too, accord more sympathy to the Musalman than to the Hindus; they feel more drawn to them. The Briton, a man of sport, appreciates the Musalman, the man of war. He is quite aware that in certain regions this man of war is only too anxious to let off his rifle at him, but he treats that desire as a dream and regards the dreamer as an exception. It is true that the Wahabi maintains sentiments of hostility against British dominion in Bengal, and that the tribes on the Afghan frontier buy rifles, which are certainly not intended for use against the Afghans, and have quite lately been employed to other purpose, almost at their weight in gold. But the rulers, or many of them, still flatter themselves that these frank, bold, and warlike people are at the same time loyal, and every now and then they eagerly record documents which attest Musalman fidelity.<sup>1</sup>

<sup>1</sup> For example, an address, emanating from a Musalman political association which had been formed in the United Provinces, was published in the Anglo-Indian press, which described the association as a Musalman Congress. Thereupon a Musalman sent a letter of protest to the papers to this effect: "Congress," he said, "is not a fitting word; it recalls the National Congress, and seems to assimilate us thereto, whereas we are entirely different, both in our objects and methods. The National Congress means public agitation and distrust of Government. The characteristic of our association is fear of public agitation, and sincere and complete confidence in our rulers. We hold that our national future is absolutely bound up in the existence and permanence of the British dominion in India, and that in the British Government we find the most sure and faithful of our friends. We think, however, that by approaching the Government we can at once make it aware of our needs and assist it in its task. You will now see how different we are from the National Congress, which desires a representative government and the filling of public offices by competitive examination, both of which we regard as harmful."

It is not for a foreigner to decide such a grave question, and I doubt whether the Anglo-Indians can do so themselves with any certainty. If one could predict accurately under which flag the 300,000 riflemen who are scattered along the north-west frontier will eventually range themselves, the whole foreign policy of India would receive a different orientation.<sup>1</sup>

It is important to note, however, that there are two sorts of Musalmans: those of the interior, in the United Provinces for instance, who are already somewhat occidentalised, who are becoming better educated, more familiar with matters of Government and questions of administration, more accessible to political and economical considerations, and more addicted to speculations with a wide outlook.<sup>2</sup> On the other side are the men of the frontier, rude, warlike robbers, living from hand to mouth, and filled with fanaticism by their priests and by the neighbourhood of other Musalman classes. If you apply the same judgment to both of these classes, you risk dangerous confusion.

It is also to be noted that the English who distrust the Musalmans are precisely those who live on the frontier, near the countless tribes and sub-tribes scattered along the mountains between Afghanistan

<sup>1</sup> About the middle of 1906 the *Civil and Military Gazette* of Lahore published a letter signed "Hindu," from which I extract the following passage: "On the 11th of June last, M. Fazl Husain, a pleader in Lahore, wrote to the *Paisa Akhbar* that in the event of a war between England and Turkey 95 per cent of the followers of the Prophet in India would repudiate allegiance to the British Crown. No Musalman letter or journal has ever contested this declaration."

<sup>2</sup> But even among these religious zeal is very marked. For instance, the Aligarh College in the United Provinces, which is a celebrated centre of Muhammadan education, is opposed by a large fraction of Musalman opinion because they think that God is not sufficiently honoured there. Again, a powerful prince like the Nizam is suspect to his co-religionists because his religious zeal is supposed to be but lukewarm.

and British India. It is natural that they should not agree with the British of the interior as to the amount of confidence which the Government can accord to the followers of Islam.<sup>1</sup>

Nevertheless, I am inclined to believe that the British have, on the whole, reason for relying more on the Musalman than on the Hindu portion of their subjects. The Hindu, patient and ambitious, is capable of raising himself to the conceptions and methods of the Western world, although I do not pretend to deduce from this how he would fare as a governing power. For this reason he is in a way, though employing perfectly legitimate methods, the rival of the British. The ordinary Musalman, on the contrary, has hitherto loathed study, which brings him closer to the West, and the competitive examinations by which public offices are filled. He fears the advancement of the Hindu, and will accept and sustain every policy calculated to retard or hinder this. He remembers the unexpected succour which English intervention brought him; he is a man of tradition and deference; he must sustain the power that is.

But the English are very careful not to rely on the Muhammadans alone. Without exactly aiming at an equilibrium of forces among elements of unequal value, they endeavour to take advantage of their rivalry.

<sup>1</sup> Here is an interesting table which was drawn up for me, in which the author compares the relative loyalty of the Hindus and of the Muhammadans :—

Of the Hindus he says	. . .	$\frac{1}{5}$ are actively loyal.
		$\frac{3}{5}$ are passively loyal.
		$\frac{1}{5}$ are actively disloyal.
Of the Muhammadans	. . .	$\frac{1}{5}$ are passively loyal.
		$\frac{3}{5}$ are passively disloyal.
		$\frac{1}{5}$ are actively disloyal.

Four-fifths of the Musalmans, he adds, spring from converted Hindus, and they combine the defects of both races. All are fanatical, all hate the infidel, and hardly any know the meaning of the word gratitude.

Their army includes Musalmans, but also Rajputs, Sikhs, and Gurkhas. They have endeavoured to make acquaintance with all, to employ all, to protect all, and to conciliate their love of justice with their interests by disdaining none of the religions and races into which India is divided.

Buddhism, which officially counts 500 million Asiatics amongst its followers, only reckons  $9\frac{1}{2}$  million in India, and almost all of these are in Burma. "Beyond the Sutlej," said Jacquemont in 1830, "Buddha commences to compete with Brahma who holds exclusive sway on the Indian slope of the Himalayas." Since then there has been hardly any change, and what there is has been to the prejudice of Buddha. The Buddhists in India proper are to be found in the regions bordering on Nepal and Tibet, and are often settlers from those countries. Buddhism has vanished from the regions round Benares where its founder commenced his teaching, probably in the sixth century before Christ.

The Buddhist doctrine rapidly spread over what are now the United Provinces, Nepal, and part of Bengal, and thence extended over the greater part of India. Buddhism was still flourishing about the fifth century after Christ, but it was in full decadence in the seventh, when it passed in a degenerate condition into Tibet. It languished on in parts of India probably till the twelfth century.

Supple and adaptable, the creed absorbed existing religions without destroying them. Thus in Burma it has superimposed itself upon anterior popular beliefs, which must have been the same as are now held by the Chins and other non-Burman tribes. Comparable in this way to Hinduism, it died, not, as has been alleged, through persecution, for it was rather disdained and

spared, but by exhaustion in the presence of more vivacious creeds. These were various forms of Hinduism, whose dogmas, affording the advantage of numerous personal gods, with an esoteric monotheism for the elect, were better fitted for sensual and imaginative populations; while in secular matters, instead of leaving free scope to the individual will, they permitted the constant intervention of the priest.

Buddhism is above all a moral code. The life of Gautama is one long sermon in favour of goodness and virtue, I take the following at random: "There are four acts which injure living creatures—murder, theft, deceit, adultery. There are four faults committed by unjust judges who pervert judgment through hate, ignorance, fear, or corruption. There are six ruinous sins—drunkenness, vagabondage, dancing to excess, gaming, neglect of duty, and frequenting evil company." Then follows a dissertation upon the reciprocal duties of fathers and children, masters and slaves, husbands and wives, teachers and scholars, etc.

The creed has little dogma. Originating after Brahmanism (itself the heir of the Vedic religion and the precursor of the Hinduism of to-day), it has kept more than one of the Brahmanical traits, but it also differs materially. Brahmanism was a national religion, inimical to the foreigner. Alexander and his lieutenants were driven to strict measures against the Brahmans. Buddhism was cosmopolitan. Brahmanism was a philosophy which investigated the origin of the universe and of the things therein; Buddhism cares nothing for cosmogony, it is only concerned with salvation. And on this point, while the Brahmanist thinks only of his own salvation, the Buddhist endeavours to save others.

How does man find salvation? By meditating on perfection and endeavouring to attain to it. But God has no place there, for Buddhism is an atheistic religion. It invites men to meditate on Buddha, to admire and love him, to identify themselves with him, and to endeavour to rise to his level; that is the whole cult. There is no God to worship, no priest to mediate between God and man.

To what does this lead? To *nebhan* or *nirvana*, that is, to the end of the suffering which we call existence. "To get well," says Sir George Scott, "is to be cured of illness and infirmity; to attain to *nebhan* is to be cured of the sorrows of existence."<sup>1</sup>

*Nebhan* is won by dearly bought merits, at the price of countless existences, which, if consecrated to virtue, gradually raises man from power to power, until at last he attains the right to live no longer. The last king of Burma, who had been a monk before he came to the throne, said to some one who had been expatiating to him on the greatness of the English, "There can be no doubt that you were all very virtuous Buddhists during one of your previous existences."

Sublime as is its moral code, Buddhism is very feeble from the political and economical standpoint. The meditation which it recommends confiscates men for the profit of the monastery, and the "merits" which it enjoins are chiefly bought by alms. The result is

<sup>1</sup> "The Buddha," says the same writer, "must pass through three stages before arriving at complete *nebhan*. The first was when, under the sacred banyan tree, he, prince, husband, and father, renounced all and became a Buddha. The second, when he died in the *sal* garden and for ever quitted the thirty-one worlds of existence. The third stage will be 2500 years hence, 5000 years after his birth, when all his scattered relics shall miraculously unite at the place where the sacred banyan grew. Then the memory of the Buddha will disappear entirely from the world and he will have attained perfect *nebhan*."

that multitudes of people live outside the world of action, and that those who still dwell there are solicited to despoil themselves of their goods in favour of non-productive works. Such a doctrine means the death of a people. Spiritual life becomes the monopoly of the clergy, and energy and action are crippled all over the country. The so-called Buddhist nations which have survived and become great will be found, if we look at them closely, to have tacitly renounced Buddhism, and practised some other religion or philosophy which encourages or tolerates action.

Traverse Buddhist Burma, and you will find everything announcing inertia and decadence. There are innumerable pagodas, out of all proportion to the spiritual needs of the people. These are less places of prayer than individual offerings, "merits" by which a man may hope to attain a step, or rather a leap, nearer *nebhan*. And these pagodas, which are flimsily built of badly baked bricks and plaster, and of which thousands are in ruins, do not as a rule last—are not intended to last—beyond the life of the donor. Why, the Burman asks, should one aim at more? What is the duration of the most stable monuments compared with eternity, and since the pious man aspires to *nebhan*, why should he desire to live in stone?

The stronghold of Buddhism is, however, not the pagoda, but the monastery, through which every Buddhist must pass. To stop there permanently were best; to remain there a considerable time is good; a short stay is indispensable. The monasteries, which have cells and common rooms like our own, are at once cloisters and schools. They are pleasing constructions, usually of wood, ornamented with delicate gilt carvings that the piety of the faithful adds to or renews. They

receive and shelter three classes: the novice, who may have no desire to become a monk, but must pass through the monastery before he is considered to have attained manhood; the religious man, who has already lived there a certain time and has been admitted as a member of the assembly; and finally the monk or *phongyi* (great glory), who has remained at least ten years. In the time of the Burman kings, the *phongyis* represented 3 per cent of the total population of Upper Burma, and 8 per cent of that of Mandalay.<sup>1</sup> The Burman monk cannot be quoted as a model; he is ignorant and lazy, and it is made too easy to become one. Few of them can read their sacred books, which are written in Pali. Their palm-leaf manuscripts, which still circulate, are produced by professional writers, who come into the monasteries to copy them, and not by the monks themselves. The *phongyi* may possess neither house, bed, money, provisions, nor cooking utensils, and you see them every morning in towns and villages, passing from door to door in grave procession, bearing their begging-bowls and receiving the traditional cooked rice. They have not to ask for this as suppliants or to be profuse in thanks. The zeal of the faithful and the simplicity of heart of the monk makes these superfluous. Nowadays, however, such food is no longer to the monks' taste; they have become fastidious. In 1891-2, when famine prevailed in Upper Burma, it was not the monasteries that gave the people the example of resignation. It is said that at present every

<sup>1</sup> Above the ordinary *phongyis* and the heads of monasteries (*sayahs*) come the *Geink-Oke* or "provincials" with jurisdiction over several houses, and finally a *Sadaw*, or supreme chief. There may be several of these chiefs or bishops, who are called *Tha-Thana-Baing*. Their number was formerly limited to eight, but at present there is one only. The election and recognition by the British Government of the existing *Tha-Thana-Baing* gave rise to a number of difficulties and intrigues between 1895 and 1904.



monastery possesses a cook, and that the daily gifts of rice, which monastic rule compels the monks to ask for and receive, are kept for the poor and for animals.

Further, the presence of the British is gradually modifying old-time practices. Boys ought to go to the monastery for training at fifteen, but that is just the age at which they can get employment in trade; consequently, the age of entry has been advanced to twelve years, and even earlier, while the length of stay has been reduced. There are now schools outside the monasteries which are more attractive and useful. Accordingly, the old three years' stay is now often reduced to three or four months, sometimes even to a few weeks; one day would be technically sufficient, but that is not considered decent.

Buddhism, nevertheless, still seems to flourish in Burma. There are countless new pagodas and bells. Its temples, especially in the towns, are still crowded by the faithful, who bring offerings of flowers or gold-leaf to regild the carvings, and pilgrimages are eagerly made. Nevertheless, it cannot be denied that respect and faith are taking flight; in the assemblies the crowd lacks reverence; the old chatter, the young flirt, and everybody smokes; they laugh as much as they pray.

And even where the old-time faith remains intact, is it really adoration of Buddha? That is not probable, for the immense majority of the people are Buddhist only on the surface. The bells sound less to summon the faithful to prayer than to call the attention of the spirits (*nats*) which watch over the pagoda and the universe. Good or evil spirits of air, water, earth, forest, and house are everywhere revered. This *nat* worship is a low and coarse religion, a mass of superstition, which keeps the peasant under the yoke of the

monks, which authorises monstrous exactions, and is fatal to effort and to economy. Burma, Upper and Lower, the Shan States, and non-Burman tribes, such as Chins and Kachins, all suffer from this evil, which the English have for long endeavoured vainly to combat.

Akin to Buddhism is Jainism, which honours Jina the victorious. Jainism, which arose in Bihar but has now disappeared there, has its present centre in Rajputana and Gujarat, and reckons about  $1\frac{1}{2}$  million of adherents among the more educated classes—traders in the north, agriculturists in the south. Like Buddhism, with which it is probably contemporary, it is atheistic, and aims at *nirvana*, but it is a more ascetic and democratic creed, and that explains why it has survived in India proper.

Jainism has left remarkable monuments of its vitality in Western and Southern India, chiefly temples and manuscripts. In recent conferences, which evidence a revival of their faith, the Jains have announced their attention of publishing the manuscripts and repairing the temples. They are well-to-do and intelligent people, and if they take advantage of circumstances, we shall doubtless soon assist at an awakening of this religion which, like Buddhism, is superior to Hinduism as regards morals and in its freedom from idolatry.

The Sikh religion is especially interesting; it succeeded in fusing diverse elements into a distinctive race, the Sikhs, who call themselves the *Khalsa* or elect people. Their religion was at the outset merely an offshoot of Hinduism. Some have thought that it was directly influenced by Islam, but that is not correct; it owes nothing to the Koran. Living, however, among the northern Musalmans, the Sikhs were affected by

them in manners and character, and it is to them that they owe their audacity and vigour.

The Sikh creed may be summarised thus : God is one, and we must honour and worship him and abstain from idolatry. The soul is immortal ; it struggles, through multiple existences, towards God, and will attain its goal through purity. By purity of the heart the soul combats envy ; by purity of the tongue, falsehood ; by purity of the eyes, concupiscence ; by purity of the ears, scandal. Noble dogmas, whose efficacy is, however, ruined by the fact that the men who formulated them were also fatalists.

The original separation of the Sikhs from Hinduism was due to ritual prescriptions ; the Sikh does not allow his beard or hair to be cut, and does not smoke. Then there is a difference in social rules, for example, the Sikh attitude towards women. Their religion forbids them to expose or kill their children (though they have not always obeyed this precept), to keep women in seclusion or to burn widows. It does not acknowledge caste ; it forbids the use of wine ; it does not enjoin pilgrimages or bathing in sacred rivers ; finally, it permits the use of meat. The vegetarian Hindus have remained feeble and a prey to successive conquerors ; the Sikhs gained physical vigour and energy to resist the Musalman.

Differing here from other religions, almost all whose sacred books are either apocryphal or handed down by tradition, Sikhism possesses an authentic sacred literature, the *Adi Granth*. It is in two series, drawn up in various idioms, and written in a style and characters which are so difficult as almost to suggest (though the supposition would be incorrect) that its authors desired to keep the understanding of "the Word" to

themselves. Given to the world for the first time in 1877, the *Adi Granth* is now again being translated into English. It is said that the Sikhs are diminishing, and that is quite likely. It is true that the 1901 figures show an increase of Sikhs as compared with 1891, but in the earlier year the enumerators had often failed to distinguish them from Hindus, whereas in 1901 this was remedied. Assuming that there is a real decrease, it is due to the fact that the faithful are getting weary of sacred books whose tongue they do not understand, and that initiations are becoming more and more rare. Men do not become Sikhs merely by birth. It is necessary to undergo baptism, a simple ceremony in which water and steel, bread and honey, play their part. And baptisms are no longer so frequent as they were, partly, perhaps, because it is less interesting to be a Sikh than it was previously. Then the Sikh was a successful warrior, thrashing the Hindu and driving out the Musalman. To-day he is a British subject, and constrained to be peaceful. British regiments now contain shaven recruits of Sikh race, and that marks the beginning of the end, the fact that many of them have gone back to Hinduism. Some personages of note, like the venerable Chief of Nabha, are endeavouring to stem this tide, but will they succeed? Will it be possible to keep the existing Sikhs and gain fresh recruits? Efforts are being made to teach the Sikh religion better, and to give its followers more ample scope in civil and military employ. It is difficult, however, to believe in the efficacy of such methods for buttressing a religion. They have been tried and failed in other cases.

The Parsis, fire-worshippers and the spiritual heirs of Zoroaster, are about 100,000 in number, and all the world knows them. For a time they dominated the

entire west of India. Commerce and banking were in their hands, and they gained reputation and fortune, purchasing acquiescence in their acquisition of riches by an immense charity. In the Presidency of Bombay philanthropy and education owe everything to the Parsis. Ardent workers, open to all ideas, well educated, standing half-way between the Europeans and the native races, they have succeeded with the English by their spirit of enterprise and their generosity. Their fêtes, where you may see beautiful Parsi ladies in magnificent attire, are much sought after. They allow the lifting of a corner of that veil which hides Indian life from us.

Nowadays, however, the Parsi has many business rivals — English, Greeks, Germans, Swiss, as well as Hindus and Musalmans; and as regards intellectual culture, while they still produce men like Malabari, they have been already overtaken, if not distanced, by the Hindus. In politics and administration they still occupy a considerable place; but the two great Indian religions refuse to let them speak in their names, and the reforms which they aim at can only succeed with the concurrence of Hindus and Musalmans. It is with sadness that one sees so many obstacles and difficulties before this gifted, seductive, and truly indomitable race; and they themselves, as if out of sheer perversity, are adding to these. They might have some chance of drawing in from outside an *élite* of noble or inquiring minds, thus increasing their own scanty contingent, but their authorities have pronounced against this. One is born a Parsi, and cannot become one. Such a doctrine is suicidal, and if things go on in this way, with the growing progress of education and prosperity among the Hindus, the Parsis, in fifty or a hundred years'

time, will be but a negligible quantity, attracting attention only by their past glories, and by their enigmatic Towers of Silence.

At Bombay, in the most beautiful part of the town, on Malabar Hill, which dominates two bays, you see certain round, bare, and mysterious towers rising in the midst of a grove of noble palm trees, and surrounded by fresh and odorous gardens. Here sad and solemn dirges at times fill the air, and simultaneously there is a rush thither of birds of prey, who plant themselves on the palm trees and wait. They seem to follow the course of the funeral, and suddenly, as if at a given sign, all fly to the towers. They are the vultures, the sextons of this creed, to whom the corpse is left after the funeral rites are over.

That these Towers of Death, with their gruesome circumstances, should still survive now that everyday life has reached and surrounded them from all parts, furnishes a striking example of the liberalism of the English. Formerly, Malabar Hill was open country; nowadays it is within a few paces of all the elegance of the capital of Western India. Accordingly, an agitation against the Towers of Silence has already commenced in the press; it is proposed to destroy them, and to raise crematoria elsewhere. The Parsis are indignant, and the British Government resists the cry for removal. But how long will it be able to do so?

Lastly, we come to a new element in India, the Christians. These number 2,923,241, of whom 2,664,313 are natives of India. Of these, there are 970,000 Protestants, and 1,123,000 Roman Catholics, to whom must be added 571,000 Syrians. Put in another way, we find pure Roman Catholics making up two-fifths of the total; Romo-Syrians, who recognise the supremacy

of the Pope, but conduct their services in Syriac, one-eighth; Anglicans, one-ninth; Syrian Jacobites, one-eleventh; Baptists, one-twelfth. Then come Lutherans, 6 per cent of the whole; Methodists,  $2\frac{1}{2}$  per cent; Presbyterians,  $1\frac{1}{2}$  per cent. Two millions of these Christians, most of whom are Catholics, live in the Presidency of Madras and the adjoining Native States of Travancore and Cochin, where also the bulk of the Syrians are to be found. 25 per cent of the population of Travancore is now Christian, and it is also in the south of India that the progress of Christian propaganda is most marked. Between 1891 and 1901 Christianity obtained 639,000 fresh adherents, of whom 378,000 were Protestants.

As formerly under the Roman Empire, and recently in China, Christianity has hitherto attained success mainly among the lower and less educated classes. Its gains are mostly from Hinduism and Animism; it attracts few Musalmans, and after the Hindu has gone to a school he is, as a rule, refractory to conversion. On the other hand, poverty makes him more accessible, and famine and want have, perhaps, given the missionaries their most numerous recruits. The submerged classes in India have much to gain from conversion and little to lose; to them Christianity is an elevating force and an instrument of fortune. The pauper of yesterday is brought up better than the son of a Brahman might be; he lives in the neighbourhood, and sometimes in the intimacy, of the missionaries, that is to say, men of the conquering race, and his example brings about the conversion of others. But for caste (polygamy has also been alleged as an obstacle, but that is now inexact) these conversions would be much more numerous. They might even be innumerable if the missionaries had

proceeded, as Father Beschi did in the Deccan, through the intermediary of Brahmans, who would have prevented the loss of caste on conversion.

So long as the Christians are in a small minority, loss of caste is a very real obstacle. In a society where she can only look to marriage, what has a caste woman converted to Christianity to hope for? Europeans will not marry her because she is a native, nor Hindus because she has lost her caste, while she disdains those who would have her, because they spring from a caste inferior to her own. As regards the men, the missionary schools have, no doubt, helped them to acquire knowledge, and that is much.<sup>1</sup> In Madras the Christians only number 2·7 per cent of the total population, but among the school-going population they claim 6·1 per cent of the males and 26·5 per cent of the females. But while conversion, with the subsequent aid of the missionaries, gives them chances of rising in life, most of them will only be less miserable, for greater material ease brings more wants and more ostentation. They squander their money in drink, for their new creed does not debar alcohol. Their whole mentality and civilisation has been changed; they have escaped from the strict rules of their previous religion without entirely adopting those of the new one. They see, moreover, that the precepts of that new religion are in many respects not applied, and that they do not really govern people's lives. From the temporal point of view, they obtain most benefit from the American Baptist mission-

<sup>1</sup> A good many natives, who have no intention of being anything but Hindus, regard the Bible as a book full of lofty precepts, and would have no objection to its being taught in schools. That, at least, was the view put before the Government of India by the late Bishop of Calcutta, Dr. Welldon. The Government, which has formally guaranteed religious neutrality, naturally did not accede to it.



aries, for whom religion is the occasion of much business. Their converts learn to be independent, to will and to do. That is not the object of the teaching they receive, but it is the result; and the English are asking themselves, with some weariness, whether it was to prepare for this progressive and sometimes troublesome emancipation that they have received so many missionaries from various lands.

It is pleasant for a Frenchman to think that among these missionaries, *padris* as they are universally called, whether Protestant or Catholic, there are none who excite the admiration of the English more than our own—not owing to the creed they teach, for, to an Englishman, Catholicism seems much inferior to Protestantism as regards the formation of character and the creation of energy; but by reason of the life that they lead and the privations they undergo. When the English compare the lucrative salaries of missionaries belonging to the Society for the Propagation of the Gospel, or to the American Baptists—£400 or £500 a year, with £10 extra for every child, a pleasant house, horses and traps, etc.<sup>1</sup>—with the Rs. 30 a month given to our priests, and their wretched dwelling-places, they regret that such endurance has not been vouchsafed to men of their own race, and give their cordial esteem to our compatriots. They also seek their collaboration. They are not deterred by any sectarian spirit from helping the Catholic schools by

<sup>1</sup> There are in India many other Protestant missionary societies: the Basel Mission, the Church Missionary Society, the London Baptist Mission, etc., carrying on, at the same time, education and evangelisation, and spending very considerable sums on the former, towards which they are aided by State grants. The description in the text does not, moreover, apply to all Catholic missionaries. The Italian and German Jesuits are in quite a different position; those in Agra and Lucknow, for instance, whose predecessors came at the time of the Mughal Emperors, accompanied by architects who, perhaps, had a good deal to say to the Mughal monuments, possess incomes, lands, and endowments, which make them important personages.

grants in aid ; they appoint from them army chaplains with decent salaries ; and each party to the bargain is usually pleased with the other.

In concluding this sketch of the present religions of India, I should like to emphasise the following conclusions. Islam and Hinduism are social organisms as well as religions ; and, as religions, they are chiefly pre-occupied with claiming external conformity from their adherents. Buddhism, on the other hand, is above all a moral code. As a religion it is atheistic, but it cannot be practised without leading towards internal perfection.

From another point of view, Hinduism is an anæmic religion, and so, too, is Buddhism. The Buddhist ruins himself in building pagodas in order to acquire merit. He admires the wisdom of the Master, and believes it more easy to imitate it in a life of poverty. A rich man who has made his fortune will get rid of it and become a hermit. A vegetarian diet, in a debilitating climate, asceticism, and the poverty it produces ; and, on another side, the prodigalities imposed by these two religions on the occasions of festivals and domestic occurrences, such as funerals and marriages, all contribute to render their followers lethargic and improvident.

With its knowledge of the country, we should expect the British Government to have a definite religious policy in India, and it has one, if we may style toleration and neutrality a policy as well as a philosophy. The public school is unsectarian, and must remain so. Hindus, Muhammadans, and Christians can meet there without fear ; they will find no word or practice to shock their beliefs. The Government leaves to every creed the task of perpetuating and defending itself by its own religious teaching and individual propaganda.

It is astonished, and perhaps sometimes grieved, that the creeds do not make full use of this faculty ; but that does not affect its determination to respect what exists and to follow the maxim *quieta non movere*. Religion has an influence over the minds of Indians which frightens it, and it maintains a prudent reserve. It does not, however, always gain gratitude thereby, for it is neutral and impartial in such a decided fashion that it is represented as respecting even the liberty to do ill, and as permitting ill-conditioned persons to raise difficulties between the followers of rival creeds. "Our policy," said an experienced Government officer, "is not appreciated. The baser sort think that its motives are to keep up sentiments of reciprocal intolerance between Hindus and Muhammadans, and thus to make more present to each the necessity for our impartial dominion."

This impartiality went so far, at one time, as to forbid access to India to Christian missionaries. Up to 1813 there was no tenderness for the missionaries or for the conversion or education of the masses. The first Lord Minto, having expelled eight missionaries, was considered by them as a sort of anti-Christ ; and so late as 1835 Macaulay wrote that the Government abstained, and, he hoped, would always abstain, from giving any sort of encouragement to those who endeavoured to convert the natives to Christianity.

Nowadays irresistible influences have obliged the Government to modify this policy. The numerous European sects have obtained entrance to the country, and to a certain extent access to the administration. But the attitude of the Anglo-Indian Government is so prudent, and at the same time so frank, that the Musulmans, and, in their hours of sincerity, the Hindus

also, have acclaimed its impartiality, and find themselves as free in British India, in the matter of their beliefs and religious practices, as they would be under princes of their own faith.

## NOTES TO CHAPTER V

I. (p. 66).—*The Bhagavad Gita*. The *Bhagavad Gita*, or Adorable Song, which may be styled the Bible or Koran of the Hindu, is said to have been revealed two or three thousand years ago. The author was a Brahman who, to give greater authority to his ideas, launched them under cover of a god and as an interpolation in the *Mahabharata*. It is a poem of 700 odd stanzas, divided into 18 cantos, and has had innumerable commentators. Every one finds in it a different sense and substance. It is always being read, meditated, and interpreted. At the present day it is calling forth increased faith in its precepts, with corresponding efforts towards new interpretations.

The *Bhagavad Gita* is practically a sermon on the battlefield. The Kauravas and the Pandavas are about to make war on each other, and the flower of the Kshattriya chivalry has assembled on either side. Arjuna, the leader of the Pandavas, who is observing both camps, suddenly cries out, "Must I bring about a battle which can only bring misfortune and lamentation to both sides?"

At this moment Sri-Krishna intervenes, Krishna being one of the incarnations of Vishnu. Here Krishna represents the divine spirit, that conscience which watches in us and endeavours to save us in spite of ourselves. He does not reply immediately to the exclamation of Arjuna, but leads him on to the following questions: Who am I? What should I do? What can I hope?

The first question brings about a long discussion on the Ego and non-Ego, and the theory of consciousness; the material and spiritual worlds, and whether they are distinct one from the other; finally, on what knowledge can do and whither it can lead men. "Who am I?" says Arjuna. "You are," says Krishna, "the eternal and supreme spirit itself; having once been, it ceases not to be. Uncreate, eternal, imperishable, it is not destroyed by the death of the body. The universe and the supreme spirit are one; man, the individual soul, is identical with the supreme soul."

Now that he knows what he is, Arjuna asks, "What should I do?" and the answer is, "You must act."

Here, evidently, the author is endeavouring to combine doctrines hitherto opposed. There is not one road only which leads to truth ; all paths are good. If, says a recent commentator, you cannot believe that a single God has created everything, believe in several ; but these gods will, after all, be the representation of the one. You may believe in devotion by thought (*Buddhi Yoga*) ; you may also believe in devotion by action (*Karma Yoga*). And the doctrine of Yoga itself can be reconciled with that of faith in Krishna (*Bakhti*), and with a blind devotion to caste duties.

"Act then," says Krishna ; "but learn that sacrifice through spiritual knowledge is superior to material sacrifices, for knowledge comprises the whole world of action."

And after action comes rest—not the repose of sloth, but the repose of meditation. The perfect type of meditator is the recluse, who, far from the haunts of men, has renounced the good things of this world, even hope, and who holds his mind in check until his very thought stops, waiting for the happy hour in which he shall be absorbed in the infinite Brahma. Spiritual knowledge will enable you to see the whole world in yourself, and also in the supreme soul. Consequently, there is identity between yourself and the universe, so to do your duty towards the universe is the same as doing it towards yourself. You are of a warrior caste ; your duty is to fight ; inaction on this occasion, if it were possible, would be immoral.

"But," says Arjuna, "what can I then hope ?" Krishna replies, "He who has acquired true knowledge, mastered his desires, and done his duty will attain to eternal peace. The man who, rejecting all desire, lives free from attachment and egoism, free from all sense of what is and what is not his, attains to the state of the happy Brahman. Do your duty, then, without disquieting yourself about the consequence ; good or evil actions are determined by the motive which inspires them. When there is no motive, action is good in itself, provided that it has been done without desire and without hope of recompense."

When ignorance and desire have been conquered, what can trouble the mind ? Nothing. That is the supreme good. But if you do not attain to it, there are sanctions and punishments. Punishment in the form of eternal illusions, a continual series of births and rebirths, sorrows, sufferings, pleasure, and pain. Man is the creature of his thoughts, actions, and desires.

The conclusion is that the supreme good is absorption in Brahma, which is practically, but for the name of the deity, the conclusion of Buddhism also. The Buddhist Burmans speak of *nebhan*, the Hindus of *nirvana*. A Hindu text, the *Brihadaranyaka*, says : "When we enter the divine spirit we fare like a handful of salt that is thrown into the

sea ; it is dissolved, without possibility of separation, in the water from which it was extracted."

II. (p. 71).—*Pilgrimages.* Hindu pilgrimages are not more obligatory than they are in the Catholic religion, but, as is the case with Muhammadans also, they procure for the pilgrim self-satisfaction, and increased esteem from others. There are local places of pilgrimage, which are frequented only by the inhabitants of a district, and regional and national centres also. Benares is a national centre common to all India ; among the regional centres one may mention Puri, Hardwar, Trichinopoly, Chanded (in Gujarat), Nasik and Bandharpur, in the Maratha country. It is ordinarily the rivers that bring pilgrims, rivers whose waters can wash away the sins of a lifetime. Many of these are sacred for a large portion, if not the whole of their course—the Ganges, the Jumna, the Godaveri, and the Cauvery, for instance. Hardwar, on the Upper Ganges, is celebrated owing to the fact that one of the rocks bordering the stream bears the impression of the foot of Vishnu. The faithful rush to touch this sacred mark, and, a hundred years ago, 400 persons perished in such a rush, with the result that the Government decided to construct magnificent staircases which lead from the rock to the river. Innumerable pilgrims wash and drink there. The water of the Ganges carries the cholera bacillus and cholera is endemic in these parts. By narrowing the bed of the river the course of the water has, however, been accelerated, and it has become cleaner if not less dangerous.

At Puri they adore the famous Jaganath. He has, however, enemies, not merely among the Europeans, some of whom perhaps have no great right to condemn idolatry, but among the natives, for instance, the Kambhupatis, a sect in Orissa and the Central Provinces, who endeavoured, about twenty years ago, to burn the idol, hoping thereby to cure the Hindus of the cult of a deity who could not defend himself. They failed, however, and the worship of Jaganath is more fervent now than ever. Puri contains a whole world of beggars, lepers, and fanatics ; the entire population is led by priests and *fakirs*, its attitude towards the European being cold and hostile. The average number of pilgrims who come here from outside is estimated at 15,000 a month, and there are days on which their number has been reckoned at 100,000. They are recruited from all over India, especially from the south and centre, by agents sent by the priests and guides, and when a convoy of pilgrims arrives every one in the place knows whom to claim.

Nasik is frequented by the higher classes, and Bandharpur by the poorer people. The latter place is visited yearly by from 100,000 to 200,000 people, who there worship a personal god, Vithoba, a form of Vishnu.

These pilgrimages cause a certain amount of trouble to Government, as we French have experienced in Algeria. At Hardwar, for instance, there is a great fair, the *Kambh Mela*, which takes place, every twelve years, at the end of March or the beginning of April, and at this period the number of pilgrims from all parts of India runs to 200,000 or 250,000. (On one occasion there were as many as 400,000.) The invasion of such a small place by such a multitude brings about many complications and difficulties. It is necessary to organise a special train service, to take hygienic precautions against epidemics, and to secure public order against sectarian rivalries. There are all sorts of questions of procedure to be settled, and many turbulent elements to discipline. It is a critical and disagreeable time for the local authorities.

## CHAPTER VI

### CASTE

Importance of caste in India : its meaning and characteristics—Theories as to its origin—Its antiquity—Continued formation of fresh castes—Methods of rising in the caste scale—High and low castes—The pariahs and the missionaries—Caste rights and obligations ; food ; marriage—Difficulty of classifying castes ; illustration from Bengal in 1901—Influence of the caste system on Islam—Revolts therefrom—Beginnings of emancipation.

CASTE is the most remarkable social phenomenon in India. Often attacked, by reason of its sometimes ridiculous rules and its occasionally troublesome consequences, it, nevertheless, remains unshaken, and its adversaries have disappeared one after the other. It dominates the life of the Hindus, and it is therefore necessary to study its origin, its present development, and its tendencies.

Sir Herbert Risley, who, apart from the high official position he occupies, is one of the principal authorities on this subject, defines a caste as "a collection of families, or groups of families, bearing a common name which usually denotes, or is associated with, a specific occupation, claiming common descent from a mythical ancestor, human or divine, professing to follow the same calling, and considered by those who are competent to give an opinion as forming a single homogeneous unity."



Mr. Gait, who also took a prominent part in the Census of 1901, adds to this definition two further elements: first, the decision by public opinion, or rather by those who are regarded as specially competent to pronounce on the subject, whether persons who claim membership of a caste are entitled to belong to it, and whether, taken in their entirety, they constitute a single homogeneous community; second, the right and obligation to marry within the caste. Other authorities add, as further characteristics, adoration of the same deity of the Hindu pantheon, and the fact that, at least in the caste subdivisions, the members can eat together without pollution. Conclusions as to caste are, moreover, still, in many respects, undetermined. The Census of 1901 has necessitated considerable reconsideration of ideas which had hitherto been assumed, and has emphasised the absolute complexity of caste ideas.

The most authoritative writers on the subject have generally their own theories on the origin of caste. They trace it to community of race, to subjection to a common lordship, to exercise of a common occupation, migration from the same locality, or, finally, to religion, heresy, or schism. Some moralist or miracle-monger will found a new sect which will tend to become a caste, each variation from the original doctrine engendering a sub-caste. Among many such theories there are, however, three which carry special weight, and which I shall now examine.

According to Mr. Nesfield, the common bond of caste is similitude of occupation, and in fact a large number of the existing castes derive their names from callings. Thus the Brahman caste is the caste of the priest; the Ahir that of the shepherd; the Chamar that of the leather-worker, and so on, through hunters, scavengers,

village watchmen, milkmen, and the like. But such similarity of occupation is but a tradition, to which present-day facts give the lie. Brahmans are not merely priests; you will find them in all professions which do not involve physical pollution. In Bihar, for example, only 8 per cent of the Brahmans are priests, and only 8 per cent of the Chamars leather-workers; while three-quarters of the Ahirs are not shepherds, but cultivators. On the other hand, the same occupation includes members of different castes. Thus the Jat peasants of the Punjab and the more aristocratic Rajputs are both cultivators.

Again, if caste is simply due to occupation, why is it not found in other countries? For example, in the later Roman Empire the Theodosian code fixed the future status of all classes of functionaries. Each was placed in a separate category according to his occupation, and the members of different classes could not intermarry. As Sir Herbert Risley has pointed out, if occupation engendered caste, the Theodosian code would have founded such a system in Europe; but as soon as the Western Empire fell, this artificial organisation disappeared with it. Similarly, we should have found a caste system in other countries in which men's occupations have been determined for them; thus, in old Peru the son succeeded to his father's occupation, as was largely the case, too, in mediæval France under the guild system. If efforts towards organisation of this sort have not led to caste, it follows that the latter must have some origin other than that of employment.

According to my eminent compatriot M. Senart,<sup>1</sup> caste is of Aryan origin, and strongly resembles institutions met with among the Greeks and Romans. The reason that these institutions led to caste in India

<sup>1</sup> See Note I. at end of chapter.

was that political circumstances kept that country separated from the rest of the world, and eliminated the opposing elements which nullified the caste tendency among other Aryan races. To this others reply that the Indian peoples are by no means entirely, or even mainly, of Aryan origin. The Ethnographical Survey now in progress shows seven distinct physical types: Dravidians, Indo-Aryans, Mongoloids, Turco-Iranians, and finally crossings of Dravidians with Aryans, Mongoloids, and Scythians. Pure Aryans are at present only to be found in the Punjab, Kashmir, and Rajputana. In Bengal the proportion of Aryan blood is very small, as also in the south of India, and yet caste has spread its strongest and deepest roots in Bengal and the south. Accordingly, Senart's theory, while largely true, does not contain the whole truth.

The origin of caste may, no doubt, be traced to Aryan influence. It was produced by the desire to secure purity of race, and at its beginning it was called *varna*, a word which means colour; that is to say, the institution was devised to prevent the white-skinned Aryans from mingling with the dark aborigines. To-day it is based on *jati* (birth), which implies that it has no longer been possible to preserve the purity of the Aryan colour, and that it has been necessary to seek a fresh criterion, the development of which we must now examine.

The caste system did not exist among the early Aryan invaders, for there is no trace of it in the Vedas, but it was in vigorous working at the time of the laws of Manu. During this period, which probably extends from the seventh century before Christ to the second after, there had been a terrible struggle between the Brahmins, or priests, and the Kshatriyas, noble Aryan

warriors, a struggle which has had its counterpart in many other countries. The Brahmans were victorious, and the theocracy which they established has remained unshaken. The cow is sacred and the Brahman divine; both must be honoured and nourished; that is the faith of every pious Hindu. Now the essential rule of every theocracy is to limit teaching to the descendants of the "religious" classes, and to keep other portions of the community in ignorance. The result is that knowledge does not progress, religion becomes petrified, and, losing reasoned faith, takes refuge in the mechanical observance of prescribed rites. It disdains work; it loathes progress, and it leads the country to ignore the need of it. These consequences of a theocracy were sketched not by an infidel, but by an orthodox Christian, M. Guizot, and every one of them is to be found in India. The average Hindu hates progress.

Having established their theocracy, the Brahmans naturally desired to transmit their lofty position to their descendants, hence Brahmans were forbidden to marry outside their own ranks. Nor was that, by itself, a special Indian phenomenon. It was known in Catholic Europe up to the eleventh century, when Pope Gregory VII. forbade the marriage of the clergy; before that priests had handed on their offices and benefices to their own children. Once Brahmans were forbidden to marry outside their own guild, those following other occupations wished to do the same. The Brahmans were the strongest; it became a fatal necessity to copy them; and thus, from one end of society to the other, there spread the forbiddal to transmit functions to outside persons, or to marry outside the functional body. In certain occupations which covered an immense area, like agriculture, this became developed into confining intermarriage

to agriculturists of the same region, and hence new divisions. The population became cut up according to occupations and regions, and each new section gradually developed into a new caste.

This series of hypotheses is reasonable and admissible; nevertheless, it does not explain everything. If the Brahmans wished to maintain their original advantages and to transmit these to their descendants, they had no need to formulate such exclusive marriage rules. Their children, by whatever wives, might have succeeded to their own privileges. There was, however, another consideration to be taken into account. All reckoned the Aryan blood to be noble, and the espousal of women of Dravidian or other races would have soon reduced its value to nothing. They therefore decided to marry none but Aryan women, and this choice, which was really a matter of expediency, was, later on, made a necessity by formal interdiction. The prohibition, however, was necessarily modified by local circumstances. To marry Aryan women only was possible in the north of India, where the Aryans had settled in large numbers, but the Aryans who had pushed farther south were rarely accompanied by women, and were bound to take Dravidian spouses. That led to a deformation of the Aryan type, of which they were so proud; but the necessities of life override theories and constitutions. When, however, by such crossings, they had sufficiently increased their numbers, these Aryo-Dravidians decided, following the example of their northern sires, to forbid further mixed marriages; and in their turn set up a strict connubial code.

This theory, which is that of Sir Herbert Risley, seems to furnish a satisfactory explanation of the facts. In all countries conquerors have been obliged to start

with taking wives from the women of the country, but as soon as times and circumstances permit they refuse their daughters to the conquered tribes. Hence, in a population which might otherwise have amalgamated, you get an upper fraction, whose privileges of endogamy and hypergamy tend to perpetuate scission. If, however, conquerors and conquered are of like race, these privileges soon vanish, and real union occurs. But if they differ in race and colour, and if the conquerors are able to get reinforcements from outside, they will tend to give rise to two races, one pure and the other half-breed, who will soon split off from each other, especially in the matter of marriage, as well as from the mass of the subject races. That is what has occurred in the United States and in Canada, and among the Eurasians of India, and such a *jus conubii* may lead on to caste.

Further, peoples who differ in habitations and occupation may easily arrive at the conception that they are strangers to one another, and that they ought to remain so. Nor is it surprising that such a conception should have arisen, and been pushed to its utmost consequences, among peoples like those of India, contemplative, inclined to subtle divisions and distinctions, filled with exaggerated respect for tradition, and ready to accept and adopt practices communicated by others. In a population of this sort it readily came about that a policy originally dictated by the desire to preserve purity of blood was developed into a religious, social, and political system, that of caste.<sup>1</sup>

<sup>1</sup> The *Bhagavad Gita*, the date of which some authorities ascribe to the second, others to the sixth, century of our era, exalts caste duties above all others, even those of friendship and kinship. It must have been composed when the penetration of Hinduism amongst the inferior races was placing the integrity of the superior race in danger. It was therefore a matter of urgent necessity to maintain purity of blood by marriage prohibitions; and if we are

To-day for the Hindu, with his ignorance of history, caste is of superhuman origin. Every Hindu must have a caste, and there are in reality no outcasts, for those whom we are inclined to call such constitute fresh castes of their own.

Here, then, we get a reasonable theory, which appears to have the support of history and psychology. It has, however, been objected that if caste be of Aryan origin, it remains to be explained why the purest Aryans, those in the Punjab, value it much less than the Bengalis who have very little of the Aryan about them. The answer is that purity of blood is most valued where it is most impure. In the Punjab, where the Aryan settlers had occupied practically the whole country, there was no necessity to protect the integrity of the race; in Bengal and the south, where the sporadic immigrants had been obliged to espouse daughters of the country, and to form an Aryo-Dravidian race, they set to work as soon as possible to preserve the Aryan blood that remained to them, and to transmit it to their descendants without further weakening.

It is probable that the caste system does not date back beyond two hundred years before Christ. Vedic literature, as we have seen, does not mention it. At this time there were no doubt social distinctions, for a portion of the original Aryan peasants had raised themselves above the rest as nobles (Kshattriyas) or priests (Brahmans). These, with the Vaisyas or agriculturists, were certainly of Aryan race. The fourth class, Sudras or artisans, were probably of non-Aryan origin. There were no doubt rules limiting intermarriage and common apt to wonder how educated and intelligent Hindus can be so strongly attached to caste and to its *jus connubii*, let us remember that the Europeans in India at one time lent themselves to marriage with ladies of the country, but now shrink from such mixed unions, or even, in general, from marriage with Eurasians.

eating between these various classes. Such restrictions were then found all the world over, but they did not absolutely prevent relations, and intermarriage was frequent. The idea of caste, and of the bonds and servitudes which it imposes, was at that time unknown in India.

It has been suggested that that idea came from Persia, and was due to an Indian adaptation of the division of society into priests, warriors, cultivators, and artisans found in the sacerdotal literature of ancient Iran. It was imported not by the original Aryan immigrants, otherwise we should have found it in the Vedas, but much later, when castes of a sort had already grown up in India, and had been organised by the Brahmans, who, becoming acquainted with this Iranian legend, and charmed with the priestly supremacy that it involved, exploited it to the full to explain the complexities of the institution. At any rate, according to the most ancient texts on the subject, which are contained in the laws of Manu, the four primary castes were those above mentioned (Brahmans, Kshattriyas, Vaisyas, and Sudras), but nowadays such a division is only of historic interest.<sup>1</sup> Masses of new castes have arisen, and have themselves become subdivided, but the Brahmans still love to perpetuate the remembrance of this primitive classification, which flatters their vanity.

It is naturally very difficult for the census officials to discover how many castes have now replaced the four primary ones, and in this respect every census has swelled the figures. The Hindus formerly admitted 101 castes; the Census of 1871 brought to light more than 400; that of 1881, 864; that of 1901, 2378 principal

<sup>1</sup> It is a curious fact that the original primary castes are the only four recognised in the penal settlement of Port Blair, in the Andamans, in the matter of the intermarriage of convicts.



castes and tribes, distributed between 43 races and nationalities ; and these figures can only be an approximation. The castes, with their divisions and subdivisions, defy accurate enumeration ; there are more than 1800 subdivisions among Brahmans alone.<sup>1</sup> Many Hindus are ignorant of, or omit to declare, the name of their tribe or caste ; they give indications which are erroneous or incomplete ; they mention an unknown caste, or classify themselves merely in a sub-caste, sect, group, and so forth. Moreover, the number of castes is increasing every year.<sup>2</sup>

Castes vary enormously in importance ; some of them number their members by millions, others by thousands only. The most numerous are the Brahmans, who are nearly 15 million ; the Chamars, 11 million ; the Rajputs and Ahirs, about 10 million apiece ; and these four between them make up about 16 per cent of the population of India. There are about 50 other castes with more than a million adherents. Some castes, like the Brahmans, spread over the whole of the Indian Empire ; others are found in one province ; others only in a single region or district. Castes so localised are really tribes which have come into the caste system, the Dosadhs, for example, and there are other tribes who are outside the caste organisation altogether, for instance, the Bhils, the Gonds, and the Kolis.<sup>3</sup>

<sup>1</sup> See Note II. at end of chapter.

<sup>2</sup> For instance, there may be some serious dispute between members of a caste which leads to the cessation of friendly relations and marriages between the two groups. If some common interest does not speedily heal this schism, they will develop into two separate castes, and each will take on a fresh name to distinguish it from the other. As an example of another method of scission, may be mentioned the fact that the Hegganiga, oil-pressers in Mysore, are divided into three sub-castes according to the number of oxen they use to work their mills, and so forth.

<sup>3</sup> Some castes are of quite recent origin. The Shagirdpeshas, for instance, in Bengal, do not date back for more than 150 years ; but they already number nearly 50,000.

Gathering together the information furnished by the census reports, we find that Indian castes may be classified, according to their origin, under seven heads—tribal castes; occupational and sectarian castes; castes formed by crossings, by migrations, and by changes of custom; and castes of a national type, such as the Marathas, the Ahoms of Assam, or the Khas of Nepal. The status of national castes is often materially affected by a change in the political situation. Thus, the Ahoms of Assam and the Koch of Bengal, formerly dominant tribes, are now in a low caste position.

The first caste principle is heredity; a man is born into a caste and remains there. He may be driven out for some violation of rule which does not admit of expiation or pardon, but a fresh member cannot be recruited in his place.

And yet the formation of castes has not been stopped; it is constantly continuing, and it is one of the methods by which men are enabled to better their social position. Western society, too, has its social strata, and a man may ascend from one to another. Such ascension is there, however, an individual matter, and is brought about by education, study, work, fortune, relations, or intrigue. In India changes of caste are personal or collective.

Take, for example, some Dravidian tribe of Central India, poor, coarse, humble, and ignored by the orthodox Hindus. Gradually, however, its principal members have become rich, and they set about raising themselves from their sordid social position. They presently find a Brahman who will fabricate a genealogy for them, some miraculous descent from an ancestor through whom they will be able to claim connection with, say, the Rajputs. That having been done, the new pseudo-Rajputs drop

their tribal appellation and break off all intercourse with their former tribesmen. But the most difficult obstacle remains to be surmounted; they must conquer the *jus conubii* with those whose equals they now claim to be. At the outset, while they have separated from their former tribe, they are disdained by the older members of their new caste. They might possibly succeed in purchasing bridegrooms from the latter for their daughters, but they will get no brides from them.

By dint of perseverance, however, they will find other pseudo-Rajputs, whose manufacture has been of older date than their own, who will consent to intermarry with them. They make the best of this for a time, resolving to be more strict later on; and so you get them marching slowly but resolutely towards a high caste condition, which soon no one will have the power or the wish to contest. It is a matter of money, time, and tact.

Taking individuals, some intelligent workman who belongs to a low caste, but has succeeded in acquiring knowledge and riches, will migrate to another district, there to change his occupation, and soon his caste also. But the condition of success lies in his initial obscurity; such caste elevation is possible only through general ignorance or very carefully guarded complicity. There are Rajas and wealthy men of low caste who are condemned to remain there always—they and their descendants after them. No fortunate marriage or cleverly concocted genealogy will help them; they are placed too high and seem too far. And change of caste for an individual, even if successful, involves painful effort. He must quit his place of origin, live among strangers, change his occupation, his rites, and his manner of living; while there is always the risk that he will trip

over some of the complicated usages of the new caste that he claims, and thus reveal his fraud.

Another method frequently employed is to make a false declaration at the census. The enumerators have constant occasion to observe the energy with which people of really low caste claim to be inscribed as Brahmans or Rajputs.

An instance of collective caste formation which involves no fraud is furnished by some primitive tribe, which has hitherto lived outside of Hinduism, but desires to join it, while maintaining its name, its occupation, and the bulk of its customs. Hinduism receives it, imposes on it rules of marriage, food, etc., and, lo! a new caste brought into being!

Sometimes other sentiments produce the same result. Some detached branch of a tribal stock maintains intact the remembrance of its origin, and will not allow its existing neighbours to eat or intermarry with its members; almost inevitably it thereby constitutes a new caste.

Changes of caste, whether individual or collective, have a double consequence; they add to a man's social consideration, but they diminish his private happiness; position has to be paid for. The high castes sacrifice the whole or a material portion of their liberty to burdensome customs. Their women are shut off from the society of men; there are no marriages of inclination; their children are betrothed as infants, and their widows condemned to remain so for ever. Their whole existence is at the mercy of the Brahman, and the purity of their food is a perpetual care. The severe and suspicious public opinion of the caste keeps them constantly in view.

The ambitious, again, sometimes meet with unfore-

seen pitfalls. The members of the high castes will only marry among themselves. If a tribe which has hitherto been homogeneous and compact has committed the mistake of endeavouring to attach itself to a caste too much above it, and which will decline to recognise it, it is shut up within very narrow endogamous limits, and is thereby prevented from escaping by crossing from its original • Dravidian or Mongolian type. That now remains fixed for ever, and though the members of such a caste may claim a lofty name their appearance betrays them.

As regards the so-called high castes, it must, however, be understood that the same caste may contain within it persons of quite different condition. The Brahmans, for example, run to more than 1800 subdivisions, many of which will not eat together. In theory a Brahman should be a priest, supported by those to whom he ministers; in practice they are so numerous that only a small portion remain priests; the rest fill the professions, and are public or domestic servants and traders. Formerly, they furnished numerous soldiers to the East India Company, but nowadays their chief trend is towards the civil service, and with marked success. The Brahmans are less than 8 per cent of the male population of India, but they occupy 35 per cent of the posts filled by natives, and most markedly so in the judicial service.

As a whole, caste has an enormous influence, especially in those Native States, for instance, where a native chief, though orthodox, is of low caste. The Brahmans here reap much profit, and instances have been known in which they acquired land, money, and places to such an extent that the British Government was occasionally obliged to intervene.

The life of the low castes is a pitiable one, and

neither religion nor society takes compassion upon them or favours their social rise. If they should succeed in rising of their own accord, said a native newspaper some time ago, we would not oppose it, but we distinctly object to the substitution of an artificial for a natural movement—an allusion to the help which the pariahs obtain from Christian missionaries. The problem is really a social and economic one. The high castes are interested in the continuance of the pariahs. If the latter were to disappear, who would take over the menial and degrading functions of life; and if they succeeded in rising, would not their competition destroy the privileges of those who are now powerful? Accordingly, the higher castes do their utmost to keep the lower ones in their present abject condition. In the Presidency of Madras, out of 38 million inhabitants, there are from 5 to 6 million pariahs or persons of like condition, restricted to the most menial employment. A sweeper, for instance, with his wretched garb and bad food, must remain such; he cannot escape his caste, his occupation, or his dress. Even if he were to make money it would benefit him nothing; he could only bury or lend it, and in the latter case he would risk its loss. Throughout the whole of the south of India the position of the pariah has hardly changed since the Abbé Dubois wrote a century ago. In the State of Travancore a pariah who sees a Brahman approaching has still to cry out when he is about 60 feet off, so that the latter may avoid him. In Malabar a European once observed several Brahmans who had sighted a pariah girl afar off. They cried to her to get out of the way and leave the path free for them, but, encouraged by the presence of the white man, she refused. The Brahmans, after waiting a little while, withdrew, abusing her.

The pariahs feel and resent their ignominious condition. The Chamars, or leather-workers, have a right to the carcasses of dead animals, and they add to their perquisites by poison. Formerly, they used to mix arsenic with powdered plaintains, but the animals refused this, and they now have recourse to another method. They take live cobras, irritate them, and then give them a cloth to bite. This cloth, steeped as it is in venom, is introduced into the *anus* of the cow, which dies of it. For a long time it was not understood that these cloths were poisoned; their insertion was believed to be some superstitious practice; but science has shown that this practice covered economic interest and social vengeance.

Nowadays pariahs occasionally seek recourse to British justice, calling upon it to raise them from their state of misery. Public attention was attracted by a petition which the Mahars of Bombay presented in 1904 to Lord Lamington, then Governor, and to a judgment given in their favour, about the same time, by the High Court of the province. In 1902 a Mahar had been fined Rs. 8 by a subordinate magistrate for having polluted a village well by drawing water from it. This judgment was referred by the Collector to the High Court, which reversed it and ordered the refund of the fine; but for one injustice thus known and remedied, there are thousands which are unknown and abiding.<sup>1</sup>

Hitherto, the British Government has been powerless to remedy this social injustice, and the pariahs now

<sup>1</sup> In 1905 the *Times of India*, a Bombay paper, brought to notice a case in Malabar, in which a Tiyan, one of the lowest castes, had accused a Nayar (a high-caste man) of having abused and insulted him on a public road. In his petition to the Collector the Tiyan deposed that when he took his case to a native magistrate, the latter dismissed it on the ground that he ought to have called out from a distance so as to apprise the Nayar of his presence, and that he was lucky not to have been beaten.

know that their real help must come from the Christian missionaries.<sup>1</sup> This explains the large number of conversions in the south of India. The missionary is ready to become their guide, their teacher, their friend, and their employer; and the convert will often show more activity and initiative than his old fellow-castemen. He will face, and occasionally revile, his former oppressors, and often defeats them on their own ground.

Of the ties which connect members of the same caste, the most important are the right of eating together and of intermarriage. It is not only in India that eating and drinking forms an important ceremonial part of life; it was the same in the ancient world, in Persia as well as in Greece and Rome, and purification was there an essential ceremony. Christians have ceased to attach importance to this by reason of the saying of Christ that it is not that which goeth into a man which defileth him; and, moreover, our conditions of life have changed, and cleanliness has become an instinct: but if we look at the ancient world, or at the present conditions of India, we shall understand the preoccupation of the caste system in this respect.

In the first place, it is necessary that food and drink should be pure, the vessels which contain them pure, and the persons who prepare or present them pure also. This seeking after purity, and the exigencies it leads to, were originally, no doubt, a form of cleanliness; but it must be noted that they differ entirely from the rules of the Mosaic or Musalman hygiene, and still more from our own. It is said that Professor Ramsay, who recently visited India, suggested that these caste rules

<sup>1</sup> In Tinnevely, in the Madras Presidency, certain missionaries have set about constructing special wells for the *panchamas*, men of the low castes, with whom ordinary Hindus decline to have social relations.



had some *quasi*-scientific origin, but that seems pure assumption. No doubt, members of castes which are declared to pollute food, for instance, the washerman, the dyer, and the sweeper, might do so as a matter of fact, but the fear of microbes has probably nothing to do with this embargo.

It was really due to an evolution of ideas which we meet with in other connections also—to a combination of fact and fiction. The fact is that certain substances may actually pollute food; the fiction, that certain people may, even from a distance, pollute persons and things in circumstances with which cleanliness has nothing to do. An Indian Maharaja, for instance, will give a dinner to the Viceroy, but he will not take part in the meal; he dines by himself, and only joins his guests for the toasts. There can be no question here of any fear arising from want of cleanliness; his conduct is due to other notions, founded partly on religious legend, and partly on the social interests which have inspired a theory of pollution, not merely by actual contact, but by sight, smell, the casting of a shadow, and so forth.

In this way a whole social code has arisen. "Will you believe," wrote Jacquemont, "that although I have only two plates I require a separate servant to wash them?" In the public schools, not only are Hindus ordinarily divided off from Musalmans, but the Hindus themselves are distributed according to their castes; they have their separate servants, rooms, and cooking. There are, no doubt, occasional departures from this. For instance, in the well-known Engineering College at Roorkee such distinctions are forbidden; everything must be done in common, and those who object can go away. They do not go, however.

It must also be noted that even the strictest adherents of caste are now allowing concessions which would formerly have seemed improbable. Journeys have become frequent and necessary, and bring about contacts which one has to submit to.<sup>1</sup>

The caste rules describe minutely the persons from whom a member may take food and drink, at what distance, and according to what rights; but nowadays these categories have been enlarged. First, the confectioner, the perfumer, the oil-seller, the potter, and the barber were declared members of clean castes. Nowadays these also include the palanquin-bearer, from whom the high castes may take water, the preparers and vendor of soda-water and ice, and dealers in biscuits and drugs. The soap-maker has not yet been included; the Indians object to soap, on the incorrect pretext that it is made with beef fat.

The rules relating to marriage are as complicated as, and even more strict than, those relating to food. It would take a volume to expound them in detail. The main rule is endogamy; a man must marry within his caste, and within a main caste there may be subdivisions, each of which is endogamous. Thus, a Brahman must marry a Brahman woman, but she must also be a woman belonging to the same endogamous subdivision as himself. But these relatively simple rules are occasionally complicated by an application of totemism. Many castes and tribes are divided into septs, each of which bears the name of some supposed common ancestor, or of some animal, tree,

<sup>1</sup> The editor of a native paper published at Poona told me that Indians object to eating with the English because that would be a voluntary act and would pollute them, but to be elbowed by men of inferior caste in a railway carriage is involuntary, and is not therefore a matter to trouble about.

plant, or other natural or artificial object which the members of the sept have decided not to eat or use. The members of a sept thus constituted are often forbidden to intermarry, so that the endogamy of the caste or subdivision is complicated by the exogamy of the sept, and this brings about countless difficulties, since many caste people are either ignorant of, or compelled to violate, these and other elaborate rules. Not long ago, for instance, a number of Bhattias of Bombay, not being able to find wives in their small local community, went to Hardwar on the Ganges, and there married girls belonging to their own caste whom they took back with them. Later on the report was spread about that these Hardwar ladies did not observe the same religious customs or practices as those of Bombay. So grave an allegation demanded an inquiry, and a committee was appointed to investigate it, but could not arrive at a unanimous conclusion. A full meeting of the caste was then called, which pronounced the excommunication of the 300 young men who had married at Hardwar, for in a matter of this sort good faith is no excuse.

To grade castes according to their social rank is an old, and practically insoluble, problem. If there is any authority that is capable of deciding on the subject it is public opinion. There has never been any expert classification, and even if such a classification were made, it could not possibly be applicable to all India. At most it could only extend to a single province, and even there it would probably meet with fatal difficulties. For the rank of the same caste may vary according to the occupations which it has taken up, the district in which it lives, and so forth. A rough method of gradation might well, indeed, be the degree of hostility which

the castes show to reform, and their fidelity to ancient abuses, such as premature marriages, the forbiddance of the remarriage of widows, etc.

Native public opinion would commence a caste classification with reference to the degree in which the castes of to-day are supposed to represent one or other of the four original castes of Manu. The Brahmans would be at the top, then those believed to represent the ancient Kshattriyas, and then those who represent the Vaisyas. But the rank of the castes who are supposed to represent the old Sundras varies enormously in different parts of India. In the north, caste classification is largely based on answers to the following questions: Will Brahmans accept water and certain kinds of food from such and such a caste? What occupation do they carry on? Does their contact pollute the twice-born? Do they eat of forbidden animals? In the south and west of India the most important element given above, the acceptance of water by Brahmans, is, however, not available as a criterion, because there the higher castes will not receive water except from their own members or those of a caste above them. For the water test it is here necessary to substitute another, the power of pollution by a low-caste person. Can this arise only by contact, or even from a distance, and if so, at what distance, 24, 36, 48, or 64 feet?

In Bengal, in view of the Census of 1901, a special committee was appointed to consider an acceptable caste classification. At the risk of being tedious, I must narrate the conclusions at which they arrived, for, without the knowledge of such details, it is impossible to appreciate the difficulty of governing a country like India. The portion of Bengal proper to which the committee's investigations extended includes 19 million

inhabitants, and the castes there were divided into seven groups. The first comprise the Brahmans, who number over a million; but the Brahman group covers very different varieties: it includes Brahmans of very high degree, and others who compare with them are relatively low-caste folk; others, again, who are looked down on even by these lower classes. The second group includes the more or less authentic Rajputs; Baidyas, whose caste occupation is medicine; and the Kayasths, or scribes, who claim to be Kshattriyas who have exchanged the sword for the pen. The third group, containing about 3 million people, comprises professional and clean Sudra castes, including confectioners, perfumers, vendors of betel, gardeners, potters, and barbers. The fourth class includes the Chasi Kaibarttas and Goalas, from whom water may be taken, but who are not, like those of the third group, served by high-class Brahmans. The fifth group contains a variety of castes from whom the higher castes do not take water. The village barber will shave them, but will not cut their toe-nails or assist at their marriage ceremonies. The sixth class, a group which numbers nearly 8 million, require special barbers of their own, as the ordinary barbers decline to shave them; but they abstain from beef, pork, and fowls, and can get their clothes washed by the village washerman. The seventh class includes castes which eat all manner of unclean food, whose touch pollutes, and whom even the washerman will not serve. These notes show the impossibility of a caste classification which would apply to India as a whole.

Caste produces its effects in unexpected directions. Baden-Powell and other land-revenue Settlement Officers have mentioned that, in certain districts, the caste of a cultivator becomes a material factor in his assessment.

The high-caste man will employ paid labour instead of working himself, his household is more costly, and his ritual expenses heavier. The result is that he makes less nett profits than a low-caste man, and may pay less land revenue accordingly.

Again, for some years past efforts have been made to develop the principle of co-operation in India, both as regards consumption and credit; but the opinion is spreading that real success in these directions will not be obtained until action has been limited to men of the same caste, or at any rate belonging to castes of more or less equal rank.

Although caste is a creation of Hinduism, it is primarily a social and not a religious institution. Theoretically, a man might become a Muhammadan or a Christian and keep his caste, though in practice such converts would start a fresh subdivision. Nevertheless, the high castes remain faithful to Hinduism, and low-caste converts have many difficulties.

As necessarily happens with religions which have many points of contact with another, Hinduism, or at any rate its social code, owes more than one of its institutions to Islam, while, on the other hand, the caste system has influenced the Muhammadans. At first sight that seems an entire negation of the Islamic doctrine of the equality of all true believers in the sight of God and his prophet. It is also in disaccord with the pretensions to rapid social rise which are characteristic of Musalman society. "Last year," says the Muhammadan proverb, "I was a weaver; this year I am a Sheikh; next year, please God, I shall become a Saiyad." Nevertheless, it is beyond doubt that some of the methods of the higher Hindu castes have influenced the Muhammadans. The highest class of these—those

of alleged foreign origin, Arab, Persian, Afghan, etc.—will marry daughters of men who rank below them in social estimation, but only under great pressure will they give them their own.

Of all the institutions of Hindu society, there is none whose scope or consequence can be compared to caste. The ordinary Hindu has no national feeling; his caste is his fatherland; he is prouder of his caste than of his family reputation.

Hitherto, caste has been the most real obstacle to social intercourse between the English and the Hindus. What intimacy can there be between two groups, one of which shuts up its women and refuses to meet the other at dinner. The caste system is further the strongest rampart of Hinduism. It is firmly opposed to the progress of what we call civilisation, but which to the Hindu means the ruin of his ideas and his institutions. It is caste which stays the progress of the interesting social reform movement. In the course of my travels I once met a Brahman, a first-class magistrate, who told me that he had been led to become a member of the reforming Brahmo-Samaj sects. As soon as his caste learnt of this he was driven from it; his relations continued to see him, but only in private. The Bazar, that is, the business world around him, continued to treat him with respect because he was a magistrate; but henceforth he had no friends, no social meetings, no dinner parties. He was sixty years of age, and showed a dour temper and no inclination to yield, but his example had been a lesson for the rising generation. I should add, however, that this took place in a pilgrimage town inhabited by fanatics.

Elsewhere, in the north of the Punjab, a Brahman told me that he had formerly made a voyage to Europe,

a course now followed by a number of his compatriots. On his return he learned that he had been excommunicated by the sect of Brahmans to whom he belonged, but he was informed that there was room for repentance; he might return to caste if he did penance, fasted thirteen days and shaved his head and beard. He indignantly refused, betook himself to Cawnpore, an important centre of progressive Brahmans, and returned bringing back a certificate of absolution signed by fourteen of these. Later on he married his daughter at the age of eighteen. That was bad enough (he ought to have married her when she was much younger); but he aggravated this insult to orthodoxy by taking as his son-in-law a young man who, like himself, had gone to Europe and been excommunicated.

In another part of India, in a town in Madras, I heard of Brahmans who had created a scandal by drinking and by eating meat. Members of their caste, to whom this conduct was denounced, merely replied that they did not do it in public. It would be an exaggeration to say that faith in caste is disappearing; but, as will be seen from these instances, the spirit of revolt is already abroad.

Such are the principal features of this remarkable institution, which is based upon the doctrine that race distinction begets and legitimises social barriers. Christianity, in principle a religion of equality, is unable to comprehend caste; so, too, is the Frenchman who has always been a revolutionary and a socialist. But the aristocratic and conservative Englishman can appreciate it, and it has supplied one of the bases of his policy, and inspired some of his methods of government.



## NOTES TO CHAPTER VI

*M. Senart's Theory of the Origin of Caste*

I. (p. 100).—In order to render justice to an eminent compatriot, I think it desirable to add a note amplifying his theories on this subject. Caste has often, and especially by Hindus who have received an English education, been compared to the social distinctions which exist in Europe ; and the social hierarchy of the various castes, differing in different regions, but fairly well established in each by public opinion, furnishes some superficial ground for this analogy. Caste, however, has only a very distant correspondence with our social classes ; its constitution and its aims are different. It not only includes the great majority of the population of India, but it is so marked out as the normal groundwork of society, so intimately bound to its religious life, that it has been regarded, not without reason, as the soul of that indeterminate and fluid mass of customs and beliefs which is called Hinduism. Many more or less heterodox sects have arisen which either expressly or implicitly attacked the legitimacy of caste, or struck at its foundations, but these have disappeared or drag on an obscure life, while caste remains indestructible. Islam penetrated by main force into India, and there carved out a large place for itself. Caste, however, triumphed over this new opposition and repugnance ; and, almost everywhere, has enveloped it in its own invisible net. It is by adoption of the caste system that, in our own day, the aboriginal populations which had hitherto remained outside Hindu civilisation are now entering it, and taking a place in the Hindu community.

Speaking generally, there is no such thing as an outcaste in India. Individuals who, for various causes, have lost their own caste soon start new groupings. They may be absorbed into lower castes, or unite with their companions in adversity in forming fresh ones ; and it is easy to understand that, amid the interaction of these fixed bodies, there is no possible existence for an isolated individual. Even the pariah is not the solitary and proscribed being that one might imagine. The group to which he belongs may be wretched and despised ; still he does belong to one ; and there are pariah castes who, in spite of the disdain of the Brahmans, have their own pretensions, and find neighbours on whom they in their turn look down.

The names of castes and sub-castes are not always clear. Apart from some traditional and generic titles, such as Brahmans and Rajputs, most of the appellations whose signification one can make out are either (a)

geographical names drawn from a locality or a province; (b) names denoting occupations; (c) names of objects or animals with which the caste considers itself, by tradition and religious practice, to be connected; (d) patronymics which mount back to some supposed common ancestor.

Caste appears to be the normal development of ancient Aryan institutions, modified by the vicissitudes which these were bound to undergo in the conditions and surroundings of India. We find groups of various origin and varying structure, which have arisen at every epoch and are still multiplying, from clans of invaders which indicate the routes of former conquerors, down to aboriginal tribes which have gradually emerged from their former isolation.

Everything, however, takes us back to the elements of the old family constitution. The true name of caste is *jati*, which means birth or race. The family was not, however, at the period when the Aryans entered India, the sole social group; it had been enveloped by larger organisms. But the clan and the tribe, whatever the names by which they are known in different countries, are but an enlargement of the family, copying and extending its organisation. The *gens*, *curia*, and tribe of Rome correspond to the family, *phratia*, and *phyle* of Greece; to the family, *gotra*, and caste of India. And this general analogy is the more instructive from the fact that in early days, so far as one can see, the most essential difference between the clan and the tribe, as between a subdivision and a main caste, is everywhere this, that the narrower group is exogamous, and the larger endogamous.

From the Vedic hymns we can see that the early Indo-Aryan population was divided into a number of tribes, subdivided into clans which claimed a common kinship, and these in turn composed of families. Then came the Brahman theocracy, which, with unique energy and perseverance, set about multiplying partitions by establishing a ladder of impurity between the various occupations. If, however, it was the triumphant theocracy which reduced caste to a scientific system, it was from the elements out of which this theocracy emerged that caste drew its beginnings and its *raison d'être*. And thus the ladder of castes erected or developed by the Brahmans, and maintained by them, was able to replace and absorb the earlier and more fluid class and tribe organisms.

In classical antiquity the slow fusion of classes was stimulated by, and at the same time helped to bring about, the civil and political ideas which succeeded. In India the theocracy destroyed the possibility of any evolution in this direction. India has never risen to the idea of State or Fatherland; there, instead of extending itself, the groundwork of society was narrowed. In the Mediterranean Republics the class idea evolved into the larger one of the city. In India, where the Aryan immigrants were spread over a vast area, and too ambitious and extensive

groupings were bound to fail, it was narrowed down into the rigid distinctions of caste.

Again, the contact of the Aryans with peoples whom they despised for their dark colour and their barbarism was bound to exalt in them the pride of race, fortifying their natural repugnance to degrading contacts, and to increase the rigour of endogamous rules—in a word, to favour all the usages and inclinations which lead to a caste system.

Nowhere do we find the ancient Aryans showing any great taste for manual labour. The Greeks and Romans made this over to slaves or to intermediate classes, freedmen or settlers; and the Indo-Aryans, who were originally a pastoral people, were even less inclined for such tasks than their Græco-Roman contemporaries. The aborigines, too numerous to be generally enslaved, forced by circumstances into the occupations which their conquerors disdained, were in turn driven, both by their own conditions, and by the ideas they received from the Aryans, to form themselves into new groups based upon occupation.

The Hindu mind is religious and speculative. A firm believer in tradition, the Hindu is singularly insensible to the delights of action and the solicitations of material progress. India thus offered a natural vantage-ground to a social organisation of archaic origin, which obeyed an all-powerful sacerdotal authority, and which converted immutability into a duty, and an established hierarchy into a law of nature. Moreover, this régime has become attached, in a way which strikes the mind of the most superficial, to a belief which is perhaps the most characteristic, and certainly the most lasting, of the religious doctrines of India, the transmigration of souls. The rigidity of the enclosures within which man must pass his life is justified and explained by a doctrine which bases the present terrestrial condition of every human being on the balance, good or evil, of his former actions. All or nearly all the sects which have sprung from Hinduism have accepted metempsychosis as a cardinal truth; all or nearly all have accepted caste without revolt.

### *Brahman Subdivisions*

II. (p. 107).—The following information, obtained from Mr. Lewis Rice's *Mysore Gazetteer*, will give some idea of the infinite complexity of caste subdivisions with special reference to the Brahmans.

In the first place, Brahmans are divided into tribes which spring from the north of the Kistna river and those which derive from the regions of the south; and the Brahmans now living in Mysore trace back by their family language to one or the other of these tribes.

That, however, is only a preliminary distinction; there is a further

subdivision into *gotras*, whose original founders or ancestors are reputed to have been seven old-time sages. From these *gotras* have sprung innumerable sub-classes, which are distinguished by their pedigrees (*provara*), and a man may not marry a woman of his own *gotra* or *provara*. *Gotra* recalls the Roman *agnatio*, a woman entering the *gotra* of her husband on marriage. Mr. Rice cites sixty-nine existing *gotras* in the single State of Mysore.

There are also subdivisions, according to the Veda, which each Brahman specially follows in the performance of rites and sacrifices; that is, Rig-Vedis, Yajur-Vedis, and Sama-Vedis. (Atharva-Vedis are not found in Mysore.)

Then, again, Brahmans are divided into three religious sects, Smartas, Māhavas, and Srivaishnavas. The Smartas (from *smṛiti*, tradition) reverence the Hindu trinity—Brahma, Siva, and Vishnu—under the mystic name Om. All three gods are equal, but Siva is the object of their personal preference. They follow the Vedānta, or Monist, doctrine, holding that nature and God are one, and that every existing thing and person contains in itself some portion of the Divinity.

The Māhavas, so-called from their founder, worship Vishnu and Siva, particularly the latter. They are dualists, holding that God and nature are at present distinct; their ultimate union will only take place hereafter. The Srivaishnavas worship Vishnu and his consort Sri, or Lakshmi. There are two divisions of these, northern and southern. They are the strictest of the Brahmans in the matter of diet, and must place a screen between their food and that even of other members of their sect or family.

These three principal sects are again split up into about eighty subdivisions, and there are yet other distinctions, but space does not allow of their mention.

## CHAPTER VII

### TOWNS, VILLAGES, AND OCCUPATIONS

India in the main an agricultural country—Towns and villages—Agriculture and other occupations—Tendency to heredity—Criminal tribes.

INDIA is in the main a rural country; its 2148 towns contain 29,240,000 inhabitants, as against 265,110,000 living in 728,605 villages. The average population of a village is about 360. Towns, as classified in the census, include all municipalities and cantonments, as well as any other continuous collection of houses which contain more than 5000 people.

The Census of 1901 gave 1507 towns of between 5000 and 10,000 inhabitants; 499 of between 10,000 and 20,000; 216 of between 20,000 and 100,000; and 29 with a population of more than 100,000. The largest of these latter cities are Calcutta, which, with its suburbs, has a population of about 1,100,000; Bombay, 776,000; Madras, 509,000; Hyderabad (Deccan), 448,000; Lucknow, 264,000; Rangoon, 234,000; Delhi, 208,000; and Lahore, 202,000. The towns are growing to some extent at the expense of the country. Their increase of population between 1891 and 1901 was 7·3 per cent, as against 2·4 per cent for all India; but the urban element is still only one-tenth of the whole, against one-third in England,

one-sixth in Germany, and one-seventh in France. The increase is mainly in the cities; some of the smaller towns are declining owing to trade changes, or occasionally, it may be, owing to the pressure of municipal taxation.

In 1901 the old province of Bengal had a rural population of 71 million out of a total of 75 million; the United Provinces,  $42\frac{1}{2}$  out of  $47\frac{1}{2}$ ; Madras, 34 out of 38; Bombay, 15 out of 18; and the Punjab, 18 out of 20; while the Central Provinces are almost entirely rural and agricultural. In Burma the development of coast commerce has increased the urban element, but this is due to immigration from India; the Indians are multiplying in the towns, the Burmans diminishing. Burma possesses two large cities: Rangoon, with a population of 235,000, and Mandalay, with 184,000, and six towns of more than 20,000 inhabitants.

The villages preserve the characteristic Indian life; it is there that you find the original India, innocent of contact with the European and the modifications which that brings about. A normal village will contain 200 or 300 inhabitants; the houses, most of which are really huts or cabins, are sometimes concentrated, sometimes scattered. There is a well, where the women come daily to draw water, with a grazing-ground on which the cattle feed in common; some trees, the oldest of which is often honoured as a fetish, and encircled by young wives and sterile women asking for offspring; sometimes a rude temple. In the evening you will find groups of old gossips, squalling children, and men and women returning from their fields.

In the south and west of India, and in Burma, the village is *raiyatwari*; the revenue is assessed on individual cultivators; and there is a single headman,

generally hereditary, who is responsible for order and for the payment of the Government dues. In the United Provinces and the Punjab the type is different. Here, the villages are (or were, for the tendency is now towards individualism) collectively owned by proprietary bodies, who are jointly responsible for the Government revenue. The headmen, who are often several in number (representing different interests) in a single village, are here a recent organisation, imposed by the Government; the original administration was by *panchayats* or groups of heads of families.

Villages of both types are provided with a number of village servants: a night watchman, a grain-warder, a distributor of irrigation water, a potter, a brass and copper worker, a carpenter, a washerman, a confectioner, a money-lender, a barber, who serves also as a go-between for marriages, and even a dancing girl, an astrologer, and a witch-finder. These village servants are servants of the community. They are not paid by the piece; they do what is legitimately required of them, and obtain their remuneration partly in land or by a share in the village harvest, and partly in material objects, such as cloth, shoes, and tobacco.<sup>1</sup> The above is, of course, but a rough and general sketch; the actual features of the organisation vary in different provinces. Bengal has now no organised village system; and in Eastern Bengal and parts of Assam, and on the west coast of Madras, there are no regular villages, the people living in scattered homesteads.

Some of the village functionaries, such as the headman, the accountant (styled *patwari* in Northern

<sup>1</sup> In famine times these village servants share in the general distress, and to keep them at their posts, and prevent them from going off to relief works, it is necessary for the local authorities to give them special doles *in situ*.

India), and the watchman or *chaukidar*, are now really Government servants, and receive small fixed salaries, in addition to local fees and perquisites. It used to be a common complaint in the villages that, instead of paying these persons directly, the Government remunerated them by means of additional cesses, which the cultivators had to pay in addition to the ordinary land revenue. The present tendency, however, is towards the abolition of cesses of this description.

Agriculture directly supports  $191\frac{1}{2}$  million people, or more than two-thirds of the whole population of the country, and of these 52 per cent are landlords or tenants, and 12 per cent day labourers. In addition to the agricultural population proper, 15 per cent of the people of India live on the preparation and sale of substances derived from the land. Agriculture is, in fact, the traditional occupation in India; the people pick it up as children without special training, and very few take up any other trade.

Next to agriculture, the most common occupation is earth-work and general labour, which supports 18 million people. The sale of food and drink supports 17 million; textile fabrics and dress, 11 million; personal, domestic, and sanitary services, 10·7 million; learned and artistic professions (a category which probably goes down to jugglers and strolling players), 5 million; commerce, 4·2 million; working in metals and precious stones, 3·7 million; occupations connected with wood, cane, and leaves, 3·8 million.

Work, however, is far from being the universal law; only two-thirds of the men and one-third of the women are actively employed. The women devote themselves to field-work, grinding grain, rearing silkworms, and



the manufacture of ropes and nets; or they may be midwives or tatooers.

An occupation whose ranks are rapidly increasing is employment connected with the administration. This now supports 3,800,000 inhabitants—2,900,000 in British India and 890,000 in the Native States. Employment under Government is a subject which I shall speak of more fully later on. It gives rise to constant friction between British and Native opinion, the latter attacking the existing state of things and the former defending it. The quarrel is not over the number of natives employed, for the British element is very small, only about 10,000; it is as to the character of the posts held. The natives claim a larger part in the high civil appointments which the British reserve almost entirely to themselves. To be accurate, only a small fraction of Indian opinion takes an active interest in this claim, and it is represented less by the members of the high aristocracy than by the Babus of Bengal, who would obtain the crumbs dropped from the master's table. The remaining portions of the Indian population are, as a rule, satisfied with what they now have, for it is *prestige* rather than gain that they seek from public office. I made the acquaintance of a large number of middle-class Indians, and all of them, even those belonging to the highest castes, were anxious to get Government employment for their sons—a good post for the most capable, minor ones for the rest. And the crowds of pupils in the schools and colleges, the number of examinations which they perseveringly submit to, their polite attentions and insinuating overtures to the local rulers, have but one object, to strengthen or conquer claims to a place under Government. It must be admitted, too, that in the middle

and lower posts of the official hierarchy, and especially in the Departments of Justice and Accounts, they give very valuable assistance to the Government.

Nor is this the only new employment which the British have opened out. The cultures and industries which they have created already support more than 3 million persons: 1 million in the tea gardens; 500,000 on the railways; 150,000 in the Posts and Telegraphs; 160,000 on coffee plantations; and  $1\frac{1}{2}$  million in factories, coal mines and the like, of which cotton mills account for about 350,000 and jute mills for 130,000. And these new occupations are susceptible of large future development.

Hitherto India has followed the principle of heredity in occupation. That, however, is now being shaken—by education, which affords so many new prospects under Government and in trade, and by the progress of communications, which is killing many old industries and substituting fresh ones. The hand-weaver, for instance, who is now being worsted, though not yet entirely, by the mills of Manchester and Bombay, will not, if he can help it, pass on his occupation to his son; while the Brahman who, thanks to the universities, can provide a career for his boys in Government service, at the Bar, in teaching, or in medicine, will certainly not press them to become priests. Nevertheless, caste is so puissant and custom so strong that heredity still dominates the bulk of Indian occupations, even in the case of the criminal tribes. These tribes, no doubt, are a small minority; nevertheless, any summary of the conditions of Indian society would be incomplete if it omitted them.

We must not confound criminal tribes of this description with the organised bands of thieves and

assassins, with no fixed home, whose operations are spread over India. They are members of tribal communities which occupy a defined area, and who professedly follow useful or tolerated crafts, passing, for instance, as basket-makers, jugglers, fortune-tellers, pedlars, etc. To these, however, they add more sinister occupations. They are individually thieves and dacoits (gang robbers), and possibly poisoners. Criminal tribes of this sort are found in all parts—for instance, the Erukulas of Madras, the Barwars, Haburas, and Sanaunas in the United Provinces, the Doms more or less everywhere, and the Hurs in Sind. In Northern India such tribes were sufficiently numerous to require special legislation. They have a hereditary and almost irresistible tendency to crime, and the Government, which knows them well, runs them down with the help of its expert trackers, and endeavours to confine them, under strict *surveillance*, to particular areas; while their members, when found guilty of crimes, are generally sentenced to very long periods of imprisonment, since it is known that, once free, they will return to their habitual vocations. Sometimes, too, the Government has endeavoured to utilise their faculties to the profit of society. In the Central Provinces, for instance, they are made hereditary village policemen, and, it would seem, not without success. But in preventive measures of this sort the Government is not seconded by public opinion, which would even seem, as in the case of the pariahs, to regard its interference as officious. At any rate, the *élite* of Hindu society remain indifferent, and the Government receives little or no outside assistance.

## CHAPTER VIII

### ECONOMIC CONDITIONS

The land ; zamindars and ryots—Trade—Fairs and markets—Workers and drones ; sub-letting ; holidays—Improvidence of the people ; causes of unnecessary expenditure and efforts to check it—Debtors and money-lenders.

THE Indian Governments have not yet given to the world statistics of a character which (even if not altogether accurate) would enable us to come to a fairly correct conclusion as to the condition of the country, the division of property, the amount of capital applied to agriculture, individual and collective wealth, and so forth. They have, no doubt, information on these subjects which is probably as valuable as that obtained by Governments elsewhere, but they only publish this on occasion and in a fragmentary way.

We know, however, that the land is minutely distributed. In some provinces—Bengal, for example—it belongs to zamindars or great landlords, who let it out to numerous tenants ; in others, to peasant proprietors (ryots), who ordinarily cultivate it themselves, but sometimes let out their plots to poorer men. There are millions of people who own or cultivate a very few acres at most. The average Indian peasant divides his modest holding into more or less regular squares, enclosed by a boundary of raised earth.

He has a cottage, or more generally a hut, a pair of oxen, and a well, whose water is spread over the fields by opportunely devised channels. The question whether men thus scantily equipped can save enough in good years to tide over bad ones has been much discussed, but not finally settled, by successive Famine Commissions. A traveller cannot help noting that the soil is generally far from fertile, that the inhabitants seem poverty-stricken, and that want abounds; but that, nevertheless, everywhere, even in regions liable to famine, you see better houses than formerly and more silver and jewellery on the women and children.

Hitherto commerce has played a relatively small part in Indian economics; but "relatively small" is an expression which might be easily misunderstood. The foreign trade of India now exceeds £200,000,000 a year, and the internal trade is in all probability greater. Commerce has been largely expanded by the development of rapid communication between India and Europe, and by the opening of railways which connect the coasts with the interior. The large businesses are still mainly in the hands of Europeans (mainly British, with growing German competition) and Parsis, but they have already been attacked by Greeks and Indians, and in commerce the Hindus display a suppleness and power of initiative which will carry them far.<sup>1</sup> You may find a broker who cannot sign his name engaging in operations which interest, and may possibly damage, the great banks in Calcutta and Bombay. The progress of cotton and jute factories is beginning to cover these cities with a canopy of chimneys, and such industries are fed by native as well as by European capital. The

<sup>1</sup> The Greeks are mainly represented by the great house of Ralli Brothers, which deals in food-stuffs and employs 150 Europeans and 6000 natives.

development of commerce naturally reacts on agriculture, starting new crops, furnishing seeds, advancing money, and so forth. In some parts, too, associations are being formed for the defence and development of some branch of commerce or cultivation in which the members are specially interested, while laboratories and research-institutes propagate useful information and advantageous methods by bulletins and lectures. India, in fact, is advancing towards a stage of great enterprises and speculations.

That, however, is to be seen only in the neighbourhood of the coast ports, and in the great cities of the interior. Elsewhere you will still find very modest industries, petty appliances for the ginning or pressing of cotton, for crushing sugar-cane, or for tanning and working leather. Innumerable small shops in the towns, and on the open country, sell *ghi* (clarified butter), sugar-cane, fruits, vegetables, wood and dried cow-dung, fodder, lemonade and soda-water, flour, pickles, enamel work, toys, cotton and other garments, flowers and wreaths, beds and mats, fezzes and turbans, sandals, jewels, brass and copper pots, and so forth. As in our towns and villages, there are fairs at fixed periods, which attract the surrounding population. Quitting a town where a fair is about to take place, you will see on all sides, and for miles together, tens and hundreds of people making their way thither in regular procession, women especially, bare-footed and high-skirted, carrying on their heads, in baskets and trays, all sorts of petty products—fire-wood, cow-dung, herbs, and vegetables—which will bring them in a few annas. If the economic condition of the locality is better, instead of these foot travellers, you meet people coming in carts. Each town, moreover, has its weekly bazar day. Sometimes a fair

coincides with a pilgrimage, and then it is no longer a matter of trade only, but of religion, pleasure, police, and possibly politics.

But if India possessed a more fertile soil and were better endowed with mineral wealth, she would still languish in poverty if the natives continued to work with the same apathetic indifference as at present. "Slackness" is the worst curse of the country. At first sight everybody seems to be taking an active part in some common toil; as a matter of fact, several persons are looking on at the labour of one. As has been cynically remarked, out of five people who seem to be working, one is doing nothing, one is resting, one is looking on, and another is helping the previous three. Every one endeavours to escape his full toll of toil. Even in provinces where there are peasant proprietors the land is often let and sub-let to tenants, one of whom works while the others, in their different degrees, are mere rent-chargers,<sup>1</sup> and then they all join to accuse the Government of exacting an excessive land revenue. If you go early into the bazars and petty workshops, you will see idle workmen waiting for the master to come and distribute their tasks. In Burma the majority of the stalls in the silk bazars are only open from 10 A.M. to 4.30 P.M. Here, too, you meet in the streets hundreds of beggars and loafers; and yet, in this same province, the Public Works Department, with a budget of about a crore of rupees, can only find workmen at salaries so exorbitant that their buildings and other works cost twice as much as they would in India proper.

The creeds foster this tendency. Hinduism, Islam,

<sup>1</sup> This is, of course, still more marked in provinces where there are large land-owners, such as Bengal.

Buddhism, and Christianity have this in common, that they are always tending to produce some new festival at the expense of working days, providing fresh pretexts for closing public offices, workshops, and schools. And yet Indians are astonished or offended at hearing the praises of Chinese labour or Japanese initiative.

If, however, the labourer is accused of idleness, he may well ask what example he gets from the capitalist. The zamindar, for example, even if not an absentee, leads in general a life of luxury; hunts, gambles, is always trying to buy fresh land, ruins himself out of ostentation, borrows in order to meet his expenses, and finally leaves his property in the hands of a money-lender, who squeezes the tenantry. Nor are money payments all in this case. The peasants have to furnish all sorts of *corvées*, including beating when their landlord goes out shooting, and the man who refuses will one day find himself falsely accused of some offence upon the sworn testimony of a number of real villains.

Want of pecuniary foresight is as common as idleness. In a country of nearly 300 million inhabitants the deposits in the Post Office Savings Banks do not amount to much more than ten crores of rupees. Every one squanders, from the wretched peasant who lives upon the grain that was given him for sowing, to the great landlord who is in the hands of usurers. A young man marries without having measured his land and calculated the out-turn necessary to support a family. The father of a family undergoes the expense of traditional festivals—betrothals, funerals, and ancestor worship;—starts suits in which success is declared certain, but which he, nevertheless, loses; and borrows from time to time a hundred rupees or so from a money-lender, on the security of his land or goods, for which



he may have to pay an anna per rupee per month or 75 per cent per annum. Everywhere, too, men sink under the burden of their innumerable relations — parents, brothers, unmarried sisters, kinsfolk of all sorts, almost all poor and idle. If a man's relatives have assisted him as a student, when he becomes a professor or a lawyer in large practice he must support them in turn, and even admit them to a share in his property. Economic progress is almost impossible in a society thus organised. Any unforeseen circumstance will upset the unstable equilibrium of the domestic budget and plunge a family into want. The evil has assumed such proportions that the Indian Governments have sometimes endeavoured to intervene, not in general against the money-lender, but in order to stop prodigality.<sup>1</sup>

In 1870 the Maharaja of Jaipur instituted a *panchayat* (committee), composed of influential representatives of the various castes and classes, with the object of regulating and reducing marriage expenses; and the *Bombay Government Gazette* of the 31st January, 1889, contains a series of caste rules for marriage expenses amongst the Lewa Kunbis, with the special object of thus putting an end to the practice of infanticide. Similarly, in 1889 the State of Bundi started a committee with power to regulate the marriage and funeral expenses of Rajputs. A more widely spread committee, which owes its inception to prominent English officials, and which is called the *Walter Krit*

<sup>1</sup> It was remarked in the Viceroy's Legislative Council, in the discussion of an Act passed in 1879 with reference to agrarian troubles in the Deccan, that it would be an error and a misfortune if the people were led to suppose that the Government approved the idea of a crusade against the money-lender. The money-lender is (it was said) as necessary to the Indian agriculturist as the grain which he sows and the rain which enables it to grow, and without his assistance agriculture in India would probably be impossible.

*Sabha* from a former Agent to the Governor-General in Rajputana, has taken in hand marriage and betrothal expenses amongst Rajput nobles and endeavoured to reduce them. A report by this committee in 1905 states that, out of 4000 marriages and 1000 betrothals, more than three-quarters had been carried out according to its rules.<sup>1</sup>

Finally, Social Conferences have been held of late years, which have advocated reforms of a social and economic nature, and have set forth significantly precise resolutions on the subject; but whether these efforts will be efficacious is another matter.<sup>2</sup>

At present, at any rate, the most prosperous class in India are the money-lenders—for example, the Nallukottai Chettis of Madura, whose transactions extend not merely over the Madras Presidency, but to Bengal, Burma, and Singapore. Recent inquiries show that in the United Provinces 78 per cent of the lands of the cultivators are under mortgage, and that three-quarters of the ryots owed more than a year's rent. The average rate of interest was nominally 25 per cent; but it was really greater, since it was calculated for each year on the amount due at its commencement, without taking into account payments made during its course. The money-lender sends in his account after the harvest, and is paid in kind, allowing for the crops at such prices as seem good to him. In such circumstances property is not secure, and those who have money hoard it.

<sup>1</sup> These rules also extend to marriage, and aim at fixing the age at fourteen for girls and eighteen for boys.

<sup>2</sup> For example, one of these resolutions covers the teaching of economy: the reduction of marriage expenses, and those of other ceremonies, to a sum suitable to the means of the parties, and the formation for this purpose of a general committee with sub-committees for various castes, which should endeavour to obtain conformity with their precepts.

The money-lender, too, has his anxieties. His house is every now and then entered by robbers, who seize his money and jewels and burn his papers. The neighbourhood then breathes freely for a while, pending the arrival of the police and of some fresh usurer.<sup>1</sup>

<sup>1</sup> The present section is necessarily only a brief sketch; I shall have more to say later on on the matters of which it treats (see Part II. Chap. III.).

## CHAPTER IX

### SOCIAL REFORM

The Social Reform party; obstacles it finds in the caste system—Social reform and Hinduism—Conditions of Hindu society; the husband and the family; widows and suttee; infanticide; prostitution—The purdah system—Child marriage and its consequence—Attempts to promote widow remarriage; Ishwar Chandra Vidyasagar; the Act of 1856 and its failure—Programme and methods of the Social Reform party—Other progressive or reactionary movements among Musalmans and Hindus; the Aligarh school and the Ahmaddiyah; the Arya-Samaj and Brahmo-Samaj—History of the Brahmo sect—Prospects of social reform.

It is easy to see that the Indian society which I have been describing has become anachronistic. The India of to-day, open to, and necessarily participating in, the life of the outside world, is stifling in the tight garments of the isolated India of the past. She is in urgent need of reform in this direction, but unhappily the Reform party is not numerous, active, and determined as it was in Catholic Europe before Luther, and in France before the Revolution. It is made up of a very small number of educated persons, faced by an ignorant and tradition-loving crowd; a few eloquent orators endeavouring to cope with an inert mass. Nor can it count even on the secret support of sections to whom change would be specially and immediately profitable, for while reform will profit all, its benefits will only gradually become

manifest. Finally, it requires much initiative and activity from a people remarkable for their traditional and apathetic spirit, so that hitherto it has produced many words but very little action, and that even among the most zealous reformers.

The enterprise is, however, perilous, for, in the long run, it means a reform of caste; and caste has modelled Hindu society and holds it in fetters, with rules that render true social life and progress impossible. Suttee has gone; but there remains child marriage, the prohibition of the remarriage of widows, the seclusion and ignorance of women, the heredity of occupations, and the forbiddal of distant voyages. Caste bars out altruism, unity, and patriotism. But it bases itself upon religion; it enlists the support of the Indian peoples, so proud of their antiquity, by appealing to the authority of their ancient sacred books. Accordingly, it is necessary, in the first place, to show that these venerable texts, far from being opposed to reform, are susceptible of interpretations which justify and recommend it. It is necessary, too, to convince both the dominating Brahman caste and the people below them; to show the latter that they have everything to gain by reform, the former that they have little to lose by it. And finally, to appeal against the old traditional spirit to the newly formed nationalist party of young India, and to convince it that India cannot become a nation and a great people till she has taken up social reforms.

That is what the most ardent reformers have for long been endeavouring to do, and it is the present rôle of one of the most eminent men of the party, Mr. Chandavarkar, honoured for his personal talents and character, and now a judge of the High Court of Bombay. We must, said he in a speech delivered not

very long ago, travel in order to learn, and, on return, turn to material use the ideas we have acquired. But caste forbids voyages. Then, again, granting that a man must leave descendants behind him to continue his race, and that he must therefore marry and have a family, what are we to think of those who, already advanced in age and with male descendants, take to themselves another wife, herself a child? To found a true family, husband and wife must be on the same intellectual plane, but we Indians (he said) insist on keeping women in ignorance. We have no true family life, from which a State or a nation may arise; we have but a life of caste.

Even this term "caste life" is inexact, for the Hindu really lives in egotistic isolation; he styles it individualism, and will argue in favour of it from Herbert Spencer, whose writings he has skimmed rather than digested. But while the West desires to promote the welfare of society through that of the individual, Hinduism leaves society altogether on one side.

In the family, such as it is, man is master; if the woman has to be reckoned with it is only because she is beautiful, or a capable business manager.<sup>1</sup> The Hindus of to-day are, in this respect, centuries behind Europe. Even now it is often difficult to get juries or assessors to find a verdict against a man who has killed his wife.

For centuries a Hindu widow of high caste was

<sup>1</sup> After the death of Queen Victoria, many natives, especially amongst the Musalmans, thought that there would be great changes. Parliament, which was all very well in the time of a woman, would now be done away with. One Musalman asked a European whether he would now continue to take off his hat to ladies, and being asked why, said, "We thought you only did this because chance had placed a woman at the head of your Government." Again, Lady Dufferin's hospital foundations for women are not popular, as being due to female initiative.

obliged to burn herself along with her dead husband (suttee). This custom does not go back to the Vedas, as some Hindus contend, since the Atharva Veda indicates the conditions under which a widow may remarry. But it is of ancient date—Alexander found it in force when he invaded the Punjab—and it was still dominant at the beginning of the nineteenth century.<sup>1</sup> General Sleeman, who was head of the Thugi and Dacoity Department, gives a touching account of an interview he had with a widow in the United Provinces who had decided to burn herself, and whom he failed to dissuade by force or persuasion. In 1829 suttee was made illegal by Lord William Bentinck, but there are still occasional cases of its survival in our own day.

That a father should kill a new-born daughter, and that not in a barbarous tribe, but in a settled and civilised society such as that of the Rajputs, seems astonishing, but the practice prevailed until yesterday, not merely in Rajputana itself, but in Kathiawar, the United Provinces, the Punjab, and probably elsewhere, as among the Lewa Kunbis of Bombay. To put down this custom, it was necessary, in 1870, to pass a special Act, which has met with success wherever it has been regularly applied.<sup>2</sup>

<sup>1</sup> Jean Moequel, a French traveller who visited India in the sixteenth century, gives the following cynical account of the origin of suttee: This custom, he says, was introduced by a king of old time, who observing that women were in the habit of poisoning their husbands in order to get fresh ones, required a widow to burn herself along with her lord, and if she were allowed to survive in order to bring up her children, forbade her remarriage.

<sup>2</sup> This law constituted a departure in the policy of the non-intervention in the social and family life of the people, but the Government knew that it had general public opinion behind it. The Rajputs, whose practice of infanticide found examples elsewhere, cannot marry outside their caste, or within their tribe or sept. Hence the marriage of daughters becomes difficult and costly, while the presence of grown-up maidens in the family would be dishonouring to the father. This led to their being killed at birth, and, once started, the custom had tradition in its favour. The Act of 1870 is based on statistics of births

In certain provinces there is a regular trade in girls. On the north-west frontier, and in the south of India, they may be bought for Rs. 70 to Rs. 100 a head, sometimes as wives, more often to become dancers or prostitutes. The conduct of the women in the interior of an Indian family is well looked after, and the apathy of the men prevents them from practising that kind of sport, beginning with flirtation and ending with seduction, to which many Europeans devote themselves. The result is that prostitution plays an important part in Indian society. European officers find themselves solicited by go-betweens, who are often the mothers of the girls they traffic in; and in the street and on the railways you may see richly clad persons whose behaviour is quite decent, but whose character admits of little doubt. Kipling, in his story *On the City Wall*, has described a fascinating and self-possessed creature of this sort, who recalls the courtesans of antiquity.

Among Hindus and Musalmans, bigamy can only be the crime of a woman; a man has full liberty, though he rarely exercises it, to take more than one wife. The missionaries, who are in a better position to judge than most Europeans, speak well, on the whole, of family morals. An exception, must, however, be made as regards the widows of the higher castes, who are forbidden to remarry, and are occasionally driven to abortion and infanticide. Under Indian conditions crimes due to a wife's jealousy ought to be rare, nevertheless, you find the Andaman Islands contain a number of female convicts who have killed their husbands, unable to tolerate supersession by a second wife.

and deaths, on arrivals and departures, for each village. If these figures show that the number of living girls is much less than it ought to be, the village is subjected to special supervision at the cost of the inhabitants. The necessity for applying this law is now yearly diminishing.



When visiting the Andamans, I asked an official there whether there was any woman of high rank among the convicts. He said none; in India everything can be arranged with money. It is always easy, for sufficient consideration, to find somebody who will confess to a crime he has not committed. Childless old men will take the place in the dock which should have been occupied by the father of a family; a poor woman that of some high-born lady, and the evidence is arranged accordingly.

In all countries there are really two societies, that of the poor and that of the rich; but nowhere is this distinction more marked than in the case of Indian women, and with reference to the purdah system. (Purdah means a veil or curtain.) Women are kept separate from men; the purdah comes between them except for the males of their own family. The system has been borrowed from the zenana of the Musalmans, who are scornful over the few liberties that the Hindus still allow to their women, with the result that the cloistering of these tends to become more strict.<sup>1</sup>

The purdah system, however, only applies to the rich; it would be impossible to extend it to the wives of the poor who have to labour in the fields and workshops. These women, at most, wear a veil, which they raise while working, and only lower at the near approach of strangers.

Further, the restrictions vary with the age and social conditions of those subject to them. The better off a man is the sooner do his daughters become purdah.

<sup>1</sup> A Musalman of some position said to me that the natives, especially the Musalmans, are quite content with the British Government, from which they only demand two things—first, consideration, which they value more than money; second, that nothing should be done which would affect the purdah system.

A woman may not have practised purdah when her husband was poor, but will do so when he has gained money. Or, again, she may practise it generally, but neglect it in circumstances where it becomes inconvenient or costly. For instance, the wife of a well-known Indian prince is purdah in her own State, but visits Europe openly with her husband. One needs to be really rich to observe purdah strictly on journeys, pilgrimages, and the ritual bathing which accompanies the latter. Special methods for *purdah-nashin* ladies have been applied in the Courts of Justice, in education, in the hospitals, and in public receptions. At Delhi, at the Coronation Durbar of 1903, there was a special camp for native nobles whose wives were purdah.

This purdah system has produced disastrous consequences. The women, separated from the world, fail to exercise the beneficent influence which they wield elsewhere. They are themselves the worse for it as wives and mothers; they do not get sufficient exercise, and they lack proper instruction. They remain ignorant and frivolous, and may become deceitful and wicked. Intelligent Indians protest against such an institution, but hitherto it is only the Parsis who have, as a class, consented to bring out their women, and to give them a place in society, in schools, and in hospitals.<sup>1</sup> Nevertheless, within the zenana itself there is a progressive movement. Native ladies' clubs have been formed, which include members of all religions and all societies, and these allow the *purdah-nashin* woman a diluted contact with masculine influence. Already certain professions are being opened to women, nursing and medicine, for instance, while one lady, Miss Cornelia Sorabji,

<sup>1</sup> Not, however, on the stage; Parsi managers who engage actresses have been disavowed by their co-religionists.

has been recognised as a legal adviser for members of her sex.

Another and equally disastrous aspect of Hindu society is child marriage. This, again, is confined to the rich classes and the higher castes, and more specially in certain provinces. In the south of India the number of child wives is relatively small; but in Berar one-sixth, and in Bihar one-fifth, of the total number of girls below ten years of age are already married, or rather betrothed, for consummation is deferred until a later period, except in certain portions of Bengal. In Bengal, too, the difficulty of obtaining husbands for Brahman girls has led to the practice of Kulin Brahman espousing an immense number of child wives, sometimes as many as a hundred, for due consideration.

In old times, when war was constant, and the sack of towns and the rape and enslavement of women were among its habitual consequences, people hastened to marry their daughters, hoping that they would thereby become less valuable in the eyes of the conqueror;<sup>1</sup> and another reason was probably the desire of the father to secure heirs. Nowadays, however, the practice rests on another basis. Marriage is difficult, largely owing to its expense, and the celibacy of the daughter dishonours the father. In Burma girls work for a dowry; in India they sometimes have recourse to mock marriages in order to escape the reproach of celibacy. On the west coast dancing girls are married to an idol or a sword. In some castes girls are married to a dagger, an arrow, or a tree, so that they may not appear unmarried before their Creator; some are married

<sup>1</sup> The Rajputs, three hundred years ago, killed their women to prevent them falling into the hands of the Mughels. The Chinese did the same in more than one place during the English and Anglo-French wars of 1842 and 1859.

even after death. In Calcutta there is a regular marriage market, in which Brahmans who have obtained University degrees take the highest prices, and, to avoid domestic difficulties, choose children. Then, again, the Brahmans, as priests, desire to have marriages celebrated as soon as possible, since each ceremony is a source of gain to them. Finally, it is held desirable that a wife should enter her husband's home young, so that she may be more easily broken into domestic discipline by her mother-in-law. Once married, she must reside with her husband's people, and can only return to her own by special permission.

These early marriages lead to the most melancholy consequences: illnesses, and even death, for the child wives; the production of feeble infants; unhappy homes; flights, still too rare, of unhappy girls who cannot support their lot. Intelligent opinion is becoming opposed to them, but few Indians have the courage to combat them openly, or at any rate to conform their conduct to their speeches.<sup>1</sup> The Government of India, in 1892, passed an Age of Consent Act, which laid down the age below which a marriage should not be consummated, but it has had little effect. About the same time there was an idea of legislating on the delicate question of restitution of conjugal rights, but that has been dropped. In the State of Mysore marriage below the age of ten has been forbidden for several years, and in 1902 the Gaekwar of Baroda passed a similar law for his State. Nevertheless, the Census for 1901 showed a considerable proportion of infant marriages in

<sup>1</sup> I was told the following story by a gentleman in Madras. His principal employé said to him, "I and my friends have sworn not to marry our daughters until they are fourteen or fifteen." Soon after he married his own at the age of eight, and in answer to a gibe of his master, said, "Had I acted otherwise I should have lost caste, and the people who swore along with me would themselves have turned against me."

Mysore. The evil is intense, and the progress hitherto made very small. Still, we may hope that there is a growing opinion in favour of reform, and that the institution will in time disappear.

One of the strongest arguments against the marriage of children is that many of these shortly become widowed by the death of one of the parties, and that in a large number of castes, generally but not exclusively the highest, widows are not allowed to remarry. The origin of this prohibition is not clear. Formerly, the question lacked practical importance owing to the prevalence of suttee, and it is only since that was abolished that it has come into the foreground. Candid natives declare that the life of a high-caste Hindu widow is a hell. Subject to her mother-in-law, often coveted by the men of the family, she is required to be as discreet as a nun and as hard-working as a slave; and many observers declare that widows would prefer suttee. To escape from their sufferings is, however, difficult; the men who married them would lose caste; they can only wait a general reform in practice.

The idea of such a reform was started by Pandit Ishwar Chandra Vidyasagar, one of the best Sanskritists of his day, who died at Calcutta a few years ago.<sup>1</sup> At the instigation of his mother, he interested himself in the lot of child widows, and studied the sacred books to see if he could find anything in their favour. He found a verse, which has since become famous, in the *Parashar Smriti*, which authorises the remarriage of widows on certain conditions, and at his request the Government of India passed an Act in 1856 which declared the second marriage of a widow to be legal,

<sup>1</sup> He used to say, We owe three blessings to the English: means of subsistence, the post, and widow marriage.

while he himself had the courage to marry his son to one. Since then associations have been formed here and there in favour of reform, but it has made little progress among the Brahmins.<sup>1</sup> The higher classes remain opposed to it, and the social reform orators treat the matter cautiously. The position is still one in which every such marriage is observed and reckoned up. At the Social Congress in Madras, Mr Chandavarkar, about whom I have already spoken, was able to reckon thirty which had taken place in the previous year. "The struggle is hard," he said, "and the more so because the women are not with us; but time and circumstances fight in our favour and will gradually become too strong for our opponents."

Such are the abuses for the destruction of which the Social Reform party is working. Add the proposed forbiddal of the remarriage of widowers of more than forty-five years of age who have already sons, temperance, and sexual purity, and we see the battlefield on which it is engaged.

Sixty years ago Sleeman, when combating suttee, observed that Indian prejudices die rapidly, but that is not so to-day. Times have changed. The Anglo-Indian Government is less strong than it was then, and it has to reckon more with public opinion in India and in England; it can no longer impose its will. Suttee, again, was a visible and public action, while child marriage, the remarriage of widows, and the zenana are matters of private life which escape the Government; and the laws which it has attempted in this direction have not proved efficacious. The Social Reform party can, therefore, only count upon itself.

<sup>1</sup> A Brahmin judge of the High Court of Calcutta, Mr. Ashutosh Mukerji, has lately caused a sensation by marrying his son to a widow.

That India is advancing in civilisation is indisputable, but it is mainly on the material side. The Indian makes free use of the telegraph, the railway, and the university. He is changing his costume ; the Musalman still takes off his slippers at the Mosque, but keeps on his patent leather shoes in our drawing-rooms. The Hindu, in a tunic of white muslin, will drive his own smart dog-cart round the race-course ; and Nawabs and Rajas go about in motors which they drive themselves. Indians have gone through courses at Cooper's Hill which qualify them for the Telegraphs, for the Public Works, and for the Forests ; they read English and speak it fluently ; some of them write it admirably. In some of their towns, and even in the heart of Native States, they have started tool-stocks and some quite modern services — drinking - water, drainage, the disposal of sweepings, and so forth. So far, these are favourable symptoms. But Indian home life has not been touched by them, and that can only be reached by Mr. Chandavarkar's method of sheltering social reform behind the authority of the sacred books. In this connection, a speech which he made not long ago in Madras is a masterpiece of cleverness and eloquence. Let us, he said, be children of Light and Truth, but the light and truth must suit our own times, and yet be deducible from the most ancient and authoritative of the religious texts. He evidently recollects the reception met with by a man so eminent as Mr. Malabari, who, as a Parsi, was denied the right of speaking on behalf of Hindus. He has seen how British law and justice have unconsciously, but powerfully, worked against social reform.<sup>1</sup>

<sup>1</sup> In matters of Hindu custom British law is swayed by the prejudices and religious rules of caste majorities. Let us suppose the rise of a new sect which rejects some of these rules, for example, some formality which has

He has noted the protests made by Hindus against social reform as being too openly in opposition to their traditions, as attacking their ideals of life and religion, and as transporting to social matters the aggressive political methods of the National Congress.<sup>1</sup> He does not wish to identify himself with the Young India party, partly as a matter of prudent tactics, partly through loyalty to the past, of which, like all his race, he is proud; so he seeks to limit the field of change, and to establish a pious connection between the present and the past.

The reform movement has thus a programme, a method, and leaders. Its programme includes on the social side, the right to undertake distant voyages, suppression of child marriage (to which some would add that of elderly widowers with sons), the remarriage of widows, temperance, and morality. On the economic side, it seeks training for industrial and commercial careers, and to attract capital and energy to the continuous development of national wealth, politics remaining definitely in the background. On the religious side, it advocates fidelity to a Hinduism freed from the pagan scum which has come up to its surface; it desires no conversions to any form of Christianity.

The method in favour to-day consists in beginning reform within a caste, and especially in the high castes, whose example will carry weight. The next step will be to closer connection between the different castes, so as to lead up to the legalising of social relations

hitherto been judged indispensable by the majority in the ceremony of marriage. Had the British not been there, this sect would in time have obtained respect for its truncated rites; but British justice does not wish to quarrel with the majority, and refuses to recognise the validity of such marriages, which, of course, works against the reform spirit.

<sup>1</sup> It has been remarked by such an enlightened Prince as the Gaekwar of Baroda that, even to-day, public esteem goes out to those who adhere most rigidly to ancient customs and practices.



in regard to food and marriage between classes of Hindus who have been hitherto kept apart. Hinduism once won over to social reform, it would spread to other religions, and especially to Islam. The aid of the Musalmans is essential for improving the education and social conditions of the purdah ladies; the zenana is of Muhammadan origin, and the Hindus will not do away with it until the Musalmans set them the example.

When these matters have been settled—and how long will that take?—the question of the improvement of relations with Europeans can be taken up. There will thus have been constituted a society which will be national in the best sense of the word: race antagonisms will have disappeared; religious and caste barriers will have been broken; and there will be a broad, congenial, and tolerant atmosphere which will at last permit the founding of national unity.

Such reform movements are not, however, of yesterday; they commenced more than seventy years ago. Hindus and Musalmans have worked at them from their own point of view and with their own methods; and to-day we find in each religion two centres of action which are analagous by their aims and tendencies. Among the Musalmans, what may be called the Aligarh school, typified by the founding of the celebrated Musalman College there, of which I shall speak when dealing with education, and the Ahmadiyah sect; among the Hindus, the Brahmo-Samaj, and the Arya-Samaj. The Aligarh movement and the Brahmo-Samaj embody liberal ideas; the Arya-Samaj and the Ahmadiyah are really reactionary and obscurantist movements.

The Ahmadiyah is openly reactionary. It was

founded about 1889 by Mirza Ghulam Ahmad, a headman in the village of Quadian, in the Punjab. His family came originally from Samarkand, but has been in India for several centuries, and proved itself loyal in 1857. He himself claims to be politically inoffensive, and absolutely loyal to the British Government, and the sect purports to follow absolutely the direction of its chief. Nevertheless, on more than one occasion, it has given the Government cause for anxiety; its procedure is aggressive, and its influence out of proportion to its numerical importance. The last census gives it 1100 adult males, which would mean a total population of about 10,000; its own publications claim from 50,000 to 70,000. It possesses a printing press, a publishing agency, and two newspapers, one published in English (*The Religious Review*), the other in Urdu. Its books and newspapers are said to penetrate into Persia, Afghanistan, Arabia, Syria, and Egypt. Its Prophet maintains that the world has not yet had its Messiah. Jesus Christ was not really crucified; He visited India, and died, at the age of 120, in Kashmir, where his tomb may still be seen at Srinagar (it is really that of a local saint). The true Mahdī-Messiah is Ghulam Ahmad himself. But the orthodox Musalmans brand him as an imposter, and his followers as heretics. The extension or success of this movement will depend upon the successor of Gulam Ahmad, who has died since these lines were written.

The Arya-Samaj, a Hindu movement, originated in Kathiawar, on the Bombay side, but has come to maturity in the United Provinces and the Punjab. It was founded about 1875 by a Brahman named Dayanand Saraswati. In 1901 this sect claimed 92,000 followers, of whom about two-thirds were in the United

Provinces and one-third in the Punjab ; and they are, as a rule, members of the educated classes. The movement claims to be a reforming and liberal one ; and it is a reforming movement on the religious side, in so far as it demands greater purity in dogma<sup>1</sup> and greater strictness of life. But, as a matter of fact, it is really fanatical and obscurantist. It is held in high esteem by the National Indian party, of which I shall speak later. A member of the National Congress recently founded a scholarship of Rs. 2000 in memory of the founder.

The last of these four movements, the Brahmo-Samaj, is numerically less important than the others ; but it has attracted more attention because its centre is in Calcutta, and it has definitely attached itself to the social reform movement. It was founded by a high-class Brahman, Ram Mohun Roy, who was, later on, created a Raja by the titular Emperor, whom the British Government at that time still tolerated at Delhi. Roy was born in 1774, in the district of Burdwan, in Bengal. He studied the languages which would prove of most service to him in his religious life—Persian, Sanskrit, Arabic, Hebrew, and Greek—and those Indian vernaculars which would be most useful for the spread of his teachings. At one time a servant of the British Government, he founded the Brahmo-Samaj in 1829, and at once commenced his teaching.

He had at least the merit of foresight. The education of the Anglo-Indian schools and colleges is of necessity purely secular. The Government cannot teach all religions, or favour one at the expense of another. Thus, however pure its intentions, the result is that its University students have little religion ; some tend towards pantheism, others to an unavowed

<sup>1</sup> Return of the Vedas, for instance, and the rejection of idolatry.

atheism. Roy held that society without religion was lost, but that the idolatry which ordinary Hinduism practised was quite powerless to stay the secular current. His aim was not to found a new creed, but to restore the ancient Hindu religion, and the Brahmo-Samaj means the assembly of those who venerate in Brahma the one and only God. His first step, then, was towards religious reform, and, like Chandavarkar to-day, he remained attached to Hinduism. He kept the sacred thread of the Brahman, as one of his disciples has said, and all his teaching was taken from the Vedas and the Upanishads. He returned to the monotheistic doctrines which had been departed from under the influence of the Puranas, and repudiated the successive corruptions which had led to idolatry and thence to atheism. He desired to retrace the current of the centuries and to bring his people back to the one God.

He started public teaching, attracted friends and disciples, and had recourse to the usual methods—conferences and remonstrances with his friends and relations; lessons to his disciples; discussions with his adversaries; public preaching of his doctrine. And no one can say what success he might not have attained had he not died (in 1833) in London, where his strict mode of living added authority to his teaching. He had as successors Debendranath Tagore, who died in 1872, and Keshub Chunder Sen. They converted the Brahmo-Samaj into a definite religion and a social reform association. At the beginning it had been a private doctrine, and the Brahmo put up with Hindu customs in his own family. It was not till 1843 that the *credo*, “I embrace the Vedantic faith,” was launched in solemn assembly as a public manifesto.

The Brahmo-Samaj commenced its useful reform work in 1829 by an address to Lord William Bentinck, supporting his measure against suttee; it did not shrink, in 1860, from entering into a struggle with caste; and finally it took the field for the amelioration of the condition of women and against child marriage. In 1872 the Brahmo-Samaj obtained from the British Government an Act by which it was hoped to place these marriages under restrictions which would lead to their eventual suppression, but the Bill, as originally drafted, was not altogether acceptable to the Brahmos, and the Act became one simply for the marriage of Indians who did not belong to any of the generally recognised creeds. This check need not, however, have compromised the future of the Brahmo-Samaj, had it not been followed by a grave disaster. In 1878 its leader, Keshub Chunder Sen, a man full of talent and enthusiasm, who had obtained great personal success on a visit to London, was weak enough, though he had been one of the protagonists of social reform and a supporter of legislation against child marriage, to marry his daughter, who was then under fourteen, to the son of the Maharaja of Cooch-Behar, who was only a year older. The fact became known, was denied, but had finally to be admitted; and it produced internal quarrels and schisms. There were 3050 Brahmos in 1891, and the number had only increased by 500 in 1901. And if, as would seem possible, many Brahmos dared not avow their creed in the census returns, that in itself is a mark of decadence. But for the high social standing and moral worth of its members, one might consider the sect as dead so far as its popular influence is concerned. In another form, however, it maintains its influence; it has entered, and may be

considered practically merged in, the party of Social Reform.

In order to appreciate the prospects of this party, we must remember that the Hindus of to-day may be roughly distributed into three categories. First, the reformers, who are attached to their religion, their race, and their country, but hold that, without entering on a destructive policy, it is necessary to draw inspiration from the West, and to purify the East from a religious and social point of view—men like Bandharkar and Chandavarkar. These, however, are only numbered by hundreds. Second, the Hindus who have developed in another direction, who have become followers of English thought, philosophy, economics, and politics, and whose ideal to-day is to endow their country with new institutions modelled on those of England. Their aim is not so much to drive out the English as to get the government into their own hands, or at any rate to obtain a larger place in the administration for themselves and their class. Of these there are some thousands. Third, the millions of Hindus who, whatever their educational condition, remain self-centred, wrapped up in admiration of the India of the past and intent on following its ideas. Some of these infringe caste rules by eating forbidden food and so forth, but they do it in secret.

These relative figures, hundreds, thousands, millions, give us some idea of the obstacles that social reform will find in its path. Those who support the movement are few in number, and those who dare openly advocate it fewer still.<sup>1</sup> It would be difficult to cite many in-

<sup>1</sup> It might even be said that it is not merely courage that is lacking. I once asked a high official in the Andaman Islands whether there was any philanthropist there working for the moral regeneration of the prisoners. He answered, No, and for several reasons; first, because the convicts belong to

fluent natives who have themselves taken the initiative with regard to measures of social progress. Their surroundings impede them; to advocate change would ruin their influence; they can only work for reform if they appear to have numbers behind them, and those numbers are not forthcoming. The higher classes are generally against them, and the reformers lack courage.

One class could indeed do much—the native princes. Most of these belong to the same religion as the majority of their subjects; their social eminence gives them indisputable authority; and they could make a real fight against superstition. Unhappily, they themselves are its slaves; with a few honourable exceptions, the princes belong to the most thoroughly backward element in India.

Social reform, then, can only really rely on the slow progress and power of truth.

several religions, and such a movement would therefore require a variety of directors. "Nor again," said he, "do I know of many natives capable of seeing in such a position anything more than an opportunity of making a profit out of the convict's rations." I have reported the speech accurately, but cannot, of course, guarantee the validity of the conclusion.

## CHAPTER X

### POLITICAL REFORM

The National party : its aims and composition—Hindu nationalism and its attitude towards the people—The National party and the British Government—Weapons of the party—the press ; provincial and local conferences—The National Congress : its organisation, methods, leaders, results, and schisms—Moderates and Extremists—The Indian Government and the Congress—The Congress and the Radical party in England—Its tactical errors and violent criticisms of the Government—Its programme and claims — Other proposals for reform—Village panchayats and “village unions”—Indian loyalty—Present attitude of the “reformers” and the British Government—What England will and will not concede—Suggested Royal Viceroy for India.

THE Social Reform party is not the only one which aims at constructing a new India ; there exists a National party which has at least equal ambitions on the political side. More noisy and active, it includes, beside some of the most eminent of the social reformers, others who, like them, belong to high castes or to the rich and educated classes—great landlords, students, professors, and barristers—who demand an immediate instalment of political reform, which the social reformers pure and simple would precede by a reformation of manners and customs. The latter aim at attaining by gradual process the elements of national unity, and, when a nation has thus been constituted, at drawing from it the elements of a national government.



The political nationalists are not averse in the abstract to social reform, in so far as this means national development; but their real aim is political advancement, which has a more real and primary interest for the classes among which they are recruited. It will be for them when they have attained power to benefit the mass of the people.

To an observer from Europe, this party appears at first sight worthy of sympathy. It claims to be an agent of emancipation, a propagator of that spirit of liberty which one meets with throughout history, and which instinctively provokes enthusiasm and gratitude. But when we examine the party more closely, and follow its evolutions and strategy, we are bound to withdraw a portion of our admiration, if not of our esteem.

It is, in essence, a party of theorists—arm-chair politicians, who, I fear, shrink in reality from the open air and a life of action. Writers and orators, proud of their knowledge and their caste, disdainful, and perhaps even ignorant, of the lower classes, aloof from the mass of the people, they have little more knowledge of that mass than they can derive from the documents brought together and published by the Anglo-Indian Government which they tax with selfishness, oppression, and ignorance. Neither their conduct nor their speeches are calculated to inspire confidence. The facts they allege, and base their reasonings upon, are often doubtful; their historical criticism is lamentably weak; while the remedies they propose, whether in the matter of administration or finance, are often childish. As to their attitude towards the lower classes, the estates of the zamindars of Bengal, who are a bulwark of the National party, show that these have not ameliorated

the condition, or even relieved the sufferings, of their tenantry. Almost all of them have been enriched by the permanent Settlement of Bengal, but it has required several Acts to make them give their tenants some little share of the unearned increment which they have obtained. The petty cultivators in Bengal are among the most harshly treated in India, and the proprietors of these large estates, who lead a life of luxury in the capitals of India or Europe, do not, with rare exceptions, contribute to schools, hospitals, drainage, roads, or other public works.

As a matter of fact, this so-called National party is really a party of privilege, a concourse of representatives of the high castes and the rich classes, which is really a stranger to the nation on whose behalf it professes to speak. Nor is this all; it is composed mainly, though not exclusively, of Hindus, among whom the Nationalist spirit manifests itself by a recrudescence of Hinduism, so that the National party really replaces true Indian patriotism by a Hindu nationalism, in which Musalmans and Buddhists could not join without very considerable reserves. Nor can any impartial observer fail to notice that the National party aspires above all to substitute itself for the British, partially at first, entirely later on. If it were truly national it would inscribe on its banner, India for the Indians, and if really sincere it would say, We claim the Government of India. Such as it is, it is a source of annoyance to the British; it is not a serious danger, but it is a development which has to be reckoned with. If the English were an idealist people, their rôle would be easy and splendid; in their turn they would seize on the motto, India for the Indians, and would thus block the path of the National party. Even now they claim,

in opposition to it, to be the defenders of the general interests of the country, but their attitude is not clearly defined. It was so at one time, in the era of Malcolm and Mountstuart Elphinstone (about 1830), and even after the mutiny, when the British considered their mission in India as being to educate the people, to make a nation of them, and to prepare them for the task of self-government. That task accomplished, in the course of a century or two, they would retire, leaving to its own destinies a glorious child of their genius.<sup>1</sup>

With such a programme, sure of their rights because sure of their intentions, the English of to-day would be in a position to combat the pretensions and check the subtle moves of the little group of ambitious members of the upper class. They would gradually complete the administrative and political education of a picked body, whose rôle would be to guide the rest, for there can be no question of granting self-government to the whole of the 300 million inhabitants of India. And this picked body they would recruit not merely among the Bengali Babus, proud of their wonderful aptitude for picking up and retaining knowledge, but throughout the whole country—in all classes, among all races and religions, among thinkers as well as among men of action, provided that they had a proper sentiment of responsibility and duty, and were less eager for posts and salaries than for the powers and opportunities of doing good which these confer. Such a line of policy, loyally, and of necessity lengthily, practised, would in due course produce a numerous and capable class of native

<sup>1</sup> Sir Herbert Edwardes, one of the Anglo-Indian heroes of the mutiny epoch, said, in a lecture at Manchester in 1860 or 1861, that if the Indians were ever to get weary of our rule we ought not even to wish to maintain it. England should employ herself in adapting India for liberty and then bestowing it upon her.

administrators, would educate the whole people, would gradually evolve a national sentiment, and would one day render necessary the end of British domination, and the commencement of a purely Indian era—a glorious and magnificent work.

But this conception is not now that of the generality of Englishmen, though it has still some few adherents—Sir Henry Cotton, for instance, who presided over the National Congress in 1904. British opinion, whether in India or the mother country, would now no longer consider a policy of evacuation; the ties which bind India to England are too strong. India is one of the main pillars upon which the grandeur of the British Empire rests, and England will not willingly let her go; nor can a foreigner judge, or any one prophesy, in regard to a matter such as this.

Such as it is, the National party is bent on a double task, to conciliate public opinion and to skirmish against the Government. It has three main means of action: an Anglo-vernacular and vernacular press; provincial and local conferences; and the National Congress. The vernacular press, though still less than a hundred years old, is a growing power, which has to be reckoned with. It originated as an instrument for the spread of knowledge, and the first native paper, brought out in 1818 by the Serampur missionaries, was styled the *Mirror of Intelligence*. The then Governor-General, Lord Hastings, showed himself very favourable to this new development, and went so far as to mitigate the Press Censorship, to the great indignation of the Court of Directors. At the time of Victor Jacquemont, in 1829, Calcutta possessed, besides various Anglo-Indian papers, such as *John Bull*, the *Harkara* (Messenger), the *East India Gazette*, and the *Literary Gazette*, several

vernacular papers published in Bengali or Hindustani, and, in spite of the Censorship, the press was very free. In the time of Macaulay the criticisms of the Anglo-Indian press on the methods of administration were very severe, but sensible men troubled themselves so little about this, that in 1835 he was able to obtain the removal of the Censorship, which did not, however, prevent these same papers from attacking him so violently that he had to forbid his sister to read them. That, however, did not alter his attitude or his opinion, and he was able to reflect with pride that India was the only country in the world which possessed a free press under a despotic Government.<sup>1</sup>

The events of 1857 naturally led to restrictions on the press, which were, however, soon removed, but in 1878 Lord Lytton again attempted to legislate for some press control by Government. His Act, however, did not work well, and was shortly afterwards repealed by the Liberal Government which had succeeded to power in England. The Indian press still enjoys a liberty which many think excessive, and which it makes use of without scruple, and, it may be said, without tact or ability. Obligated to treat of everything, and with education inadequate to the task, its editors are but bunglers. Unfortunately the native press is strongly nationalist, and is bound, at the risk of losing a portion of its *clientèle*, to receive and echo all the attacks

<sup>1</sup> In 1835 Macaulay noted that the most influential vernacular papers were generally still circulated in manuscript. He observed in 1836 that the press was still relatively a feeble weapon in India, doing much less good and much less harm than in Europe. Sometimes it brought to the notice of Government the existence of evils which would otherwise have been ignored, and up to a certain point its criticisms exercised a salutary influence on public officials and contributed to purity of administration. On the other hand, by misrepresenting the objects of various Government measures, and by flattering the prejudices of its clients, it created some unhealthy excitement among a very small portion of the population.

directed against the Government and the British. Consequently it is uniformly violent; it blames, suspects, and travesties. Hitherto the Government of India has taken little notice of it, and the individual British reader does not make any attempt to sift the true from the false, legitimate complaints from frivolous and spiteful accusations. It has not, therefore, been able to fulfil the useful rôle which Macaulay foresaw for it. Of late the increasing violence of certain journals has obliged the Government to depart from its previous contemptuous indifference, and there have been a good many prosecutions of native papers and printers for sedition, and, quite recently, some restrictive legislation.<sup>1</sup>

There are naturally some honourable exceptions to the above picture. There are scholarly and courteous Indian editors, whose papers, such as the *Rast Gaftar*, the *Indian Spectator*, the *Hindustan Review*, and the *Indian People*, satisfy moderate and reasonable readers.

This melancholy and futile attitude of the vernacular press has attracted attention both from the Indians and the British. In some parts intelligent natives have gone so far as to form committees composed of influential and honourable persons with the object of trying to watch over the press and establish better relations between it and the Government. English opinion still hesitates between various methods, viz. (1) that of press warnings; to be followed, if unheeded, by the suspension of the offending paper. That was tried in France during the Empire and met with universal condemnation.

<sup>1</sup> Lord Curzon, who did not fear the vernacular papers, but did not love them and was not loved by them, remarked on one occasion that the Indian journalist combines with a defective education a natural tendency to invective. He does not understand his adversaries and does not attempt to do so, but prefers to abuse them; and his conception of things is so strange that he flatters himself that his coarse abuse will conciliate gentlefolk, and his follies the intelligent.

(2) The starting of Governmental or inspired papers which would expound and support the opinions, the views, and the acts of the administration. The Government of India and the Provincial Governments have at present their gazettes, but these are purely official productions, containing announcements of promotions and retirements, Government resolutions, and so forth.

(3) Finally, a method which would oblige newspapers to receive and publish without delay every communication from Government. Each province would have a press bureau, whose duty it would be to watch over the native press, to correct its errors, voluntary or otherwise, and to support its appreciations by citing corroborative facts. Papers which published these communications would naturally indicate their source.<sup>1</sup>

The annual local and provincial conferences of the National party, which assemble to discuss questions relating to Education, Taxation, Land Revenue Settlement, Separation of Judicial and Executive Functions, and so forth, are given a prominent place in the native press. Their proceedings and resolutions are chronicled, while the speeches of the Presidents and other leaders are published in full. These leaders all assemble once a year at a solemn assize of the party, the National Congress, which includes politicians and reformers from all parts of India—mainly Hindus, but with a sprinkling also of Parsis and Musalmans—and is held in one of the provincial capitals or other great centres of India, such as Calcutta, Lahore, Bombay, Madras, and Benares. It has been presided over by Englishmen, such as the late Mr. Bradlaugh, Sir H. Wedderburn, Mr. A. O.

<sup>1</sup> There has been some beginning of this in the shape of the "Editor's Table" which exists in every secretariat, and on which are placed, for the use of representative newspapers, Government resolutions and other papers of general interest.

Hume, and Sir Henry Cotton, but mainly by natives—for instance, Mr. Dadabhai Naoraji, who was once a member of the British Parliament, Mr. W. C. Bonnerjee, Sir P. M. Mehta, Mr. A. M. Bose, Mr. Lal Mohun Ghose, an unsuccessful candidate for Parliamentary honours in 1884, Mr. Chandavarkar, Mr. Gokhale, and others. The place of meeting of each Congress is fixed the year before; and in the place where it is to assemble a local committee is formed to look after the organisation, to meet the necessary expenses, and to arrange for the lodging of the hundreds and thousands of delegates and visitors—Hindus, Musalmans, Parsis, and Europeans—who will come from all parts of India, but more especially from the province in which the Congress is to sit.

At the opening session the local committee leads off with an address of welcome, and then the President for the year reads his speech. It is an exceedingly long one, for there is no limitation to the Congress programme, a matter which enfeebles its action. Such a speech contains everything; it is a review of all the evils from which India has suffered or is supposed to be suffering, a chaplet of all possible reproaches and grievances. That is for the benefit of the British. As regards the Indians, they expect compliments to the party leaders, a flattering exposition of what they are doing, and favourable auguries for the future, which are always the same.

It is a notable fact, which should inspire some modesty and gratitude in the "Congress-wallahs," that the language used at these gatherings, and the ideas it conveys, are European. The language is English, the one tongue which enables men differing in race and language to understand each other; and the speeches invoke and quote thinkers belonging to the whole world



and to all the ages. A single speech will contain references to Gibbon, Napoleon, Fawcett, Labori, Virgil, John Bright, Hume, Darwin, Spencer,<sup>1</sup> Haeckel, Pascal, and Thiers; besides innumerable proverbs and historic *mots*, such as *après moi, le deluge*. Such a discourse is a veritable Babel, and it is difficult to say whether it is inspired by sincere modesty or by a desire to make a show of superficial learning gleaned at the eleventh hour. With all this, there are passages of true eloquence and ardent patriotism, and grievances which must be admitted to have some foundation.

The Congress held at the beginning of 1908 broke up in confusion, owing to dissension between the moderate majority, who profess loyalty to British rule, and the extremists, who are in open hostility thereto;<sup>2</sup> and the moderates, who are as yet in the great majority (they include, however, some politicians who, in India, are considered very radical), are now starting a separate organisation. Their programme is the eventual attainment by India of self-government after the fashion of Canada or Australia, but to be attained gradually and by constitutional means.

Up to 1907 the Congress had held twenty-three annual sessions, and if, after this considerable lapse of time, one attempts a valuation of the results obtained, the laws passed under its influence, the reforms realised, and the conciliation of public opinion, we must admit that they are very slender. I have already said that the

<sup>1</sup> Herbert Spencer has exercised, and still exercises, a great influence over Indian thought. In 1904 a member of the Nationalist party founded, in his memory, six travelling scholarships of Rs. 2000 each, the holders of which were to go to England to complete their education and to prepare themselves for liberal professions or occupations; but on condition that they should never enter the service of the Anglo-Indian Government, independence being, according to the donor, the first condition of efficacious reform.

<sup>2</sup> See note at end of chapter—*The Indian Extremists*.

National party is really a very small minority in the country; it does not represent truly national interests. The mass of the people remains indifferent to its labours and, its adversaries say, does not share its preoccupations.<sup>1</sup> This explanation, however, is not sufficient, and others have been given. Apart from the recent split of moderates and extremists, which had long been brewing, before it came to a head, the Congress tended to divide itself into two parties, those of Old and Young India. The Young India group are reformers who sit at the feet of the English Radicals, and who demand progress even if it is not adapted to the present conditions of India. The men of "Old India," who represent the immense majority of the country, are generally scions of the old aristocracy or the landed gentry, and are attached to national and religious traditions. They desire reforms which have been fully studied and prudently adapted to existing circumstances, and they have no confidence in political agitators, whom they describe as upstarts who wish to become masters. That division is one cause of impotence, to which we must add religious, provincial, and personal rivalries, more lively and tenacious than those we know in Europe. Finally, sentiment or interest has kept aloof men who might otherwise have joined the Congress ranks. Violent speeches, for instance, have alienated prominent men who would have accepted a more moderate agitation,

<sup>1</sup> A Musalman who has held aloof from the Congress, and regrets that any of his co-religionists join it, has given me the following note thereon: "It is not national; it is a class Congress, which cares little for the needs and claims of the mass of the people, but much for the interests of its own class. It is for that class that it desires greater advantages and more highly paid appointments, and it only throws general questions such as famine, the condition of the native princes, etc., into its programme in order to mask its own egoism. I should add, however, that among the 'Congress-wallahs' there are some honourable exceptions to these conditions, and I recognise that the Congress contains an enormous amount of talent."

and merchants who fear to compromise themselves in the eyes of the Government.<sup>1</sup>

During the first four or five sessions of the Congress, the close union of its members, and the moderation and practical spirit of their resolutions, gave rise to hopes to which time has given the lie. Later on, personal ambitions became developed, minorities were sacrificed, dissensions arose, and although the Musalmans are now joining the Congress in larger proportions than formerly, the old time enthusiasm has died away.

The principal cause of the failure of these early hopes is to be sought in the change of attitude of the Government of India. Lord Dufferin, who had been impressed with the desirability of establishing a counterpoise to the non-official Anglo-Indian opinion which had burst forth so violently under Lord Ripon in the Ilbert Bill agitation, at first encouraged the Congress movement; but later on, finding that it was moving in a direction of which he did not approve, he withdrew his support. Government officials were forbidden to take part in the movement or attend meetings, and it was generally boycotted by the Musalmans also.

There has, however, been no overt hindrance on the part of Government; the meetings and discussions of the National Congress are perfectly free—more free, it has been observed, than they would be in any Native State—and its orators know that their eloquence and indignation can be displayed without any risk of harm. But the fact remains that the Congress is on one side and the Government on the other. That does not imply,

<sup>1</sup> Mr. Lal Mohun Ghose, for instance, in presiding over the National Congress at Madras in 1903, said that he had kept aloof for some years from politics (owing, no doubt, to the violent attitude of men like Mr. Tilak), a fact which permitted him to ignore the "factions and cliques who do us so much harm by sowing dissension among our public men."

however, that the advantage has remained entirely with the Government; on the contrary, in this struggle it is bound in course of time to lose ground, and that would have happened in any case. Had it continued to patronise the Congress it must have been led on beyond the bounds which it had marked out for itself. Refusing its aid, and taking up a practically hostile position, it has the unhappy appearance of struggling against a popular cause, which inevitably proceeded to seek and obtain aid from England.

The Congress was guided in this second phase by some of the men who had led it in the first, and they rendered it the enormous service of showing it the only tactics by which it could obtain success. They negotiated an alliance between the National party and the English Radicals, who were naturally led to defend the "rights of man." It was men of this sort who brought the late Mr. Bradlaugh to India to preside over the Congress. It was they who commended to Liberal opinion those claims and aspirations which the Anglo-Indians, more in touch with the "Congress-wallahs" and their real desires, with the native mind and its defects, considered to be premature or absolutely unjustified; but which the stay-at-home European, who generalises and judges of what he is ignorant by the little he knows, is ready to accept and support. In the present Parliament, too, the Labour party is disposed to favour the Congress agitation, witness the recent visit to India of one of its leaders, Mr. Keir Hardie.

At the same time, the National party has disciplined itself. It worked, it studied, it diffused its publications, it organised crusades throughout India in the shape of those local and provincial conferences of which I have spoken, and it obtained valuable recruits. No doubt it

had to undergo a compromising co-operation with persons it would have been better without; and of late years Mr. Tilak, and Babu Bepin Chandra Pal of Bengal have organised a violent party whose methods have tended to discredit more moderate men. The fact remains, however, that the Congress leaders include men who by their moral worth, their enthusiastic eloquence, or their calm judgment have been able to rally to it fresh recruits and to give the movement a serious character which must be reckoned with. It is all very well for Anglo-Indians to go about saying that the Indian Government will concede nothing, and that England will not do anything for people who have no votes. The Government does concede. Follow the budget debates in the Provincial Council and in the Viceroy's Council at Calcutta, and you will see native members taking up regularly the rôle of assailants, criticising facts, denouncing abuses, and finally snatching from the administration reforms or measures which it ought to have given itself the credit and prestige of putting forward spontaneously. It is another error of the Anglo-Indians to say that they represent England in India, and that whatever political party is in power at home will maintain the same policy. Have we not seen Lord Morley, now Secretary of State for India, with the concurrence of Lord Minto, entering on a course of fresh concessions to native claims. Witness the present proposals for making the Legislative Councils wider and more representative, and the admission of native members to the Secretary of State's Council and to that of the Viceroy; the commencement of the withdrawal of magisterial powers from the Collectors and other executive officers of Government, one of the long-standing demands of the Congress; and the

appointment of a Royal Commission upon Decentralisation which has included within the scope of its recommendations the grant of larger powers to District Boards and municipalities, and some revival of the old village autonomy.

It would seem, then, that the National party, in its struggle with the Government of India, will continue to get valuable support from England; and if the Congress fails in its ambitious task, it will be not by the character of its programme, but by its method of advancing it. In the contest in which it is engaged everything is a question of tactics, and the tactics which it has adopted, while excellent in so far as they have conciliated an influential fraction of English opinion, are foolish in having fruitlessly alienated the sympathies of the Anglo-Indians, above all of the high officials who, in turn, influence the Secretary of State in London. The Congress has committed the mistake of behaving as if it were a Parliament, whereas it is not even an Advisory Council. Some of its members love to compare their movement with that for Irish Home Rule, but they forget that they do not dispose of the eighty odd Irish votes which, on more than one occasion, have turned the scale at Westminster and forced successive Governments to reckon with them.

The capital error of the National party is indeed its lack of moderation and equity. According to them, the English have done nothing worthy of praise. The latter get no credit for any good they do; it is represented as having been forced upon them. Such indiscreet attacks, besides irritating the Government, deprive it of any inclination to examine such real grievances as may lie behind them, while of late the violent language of the orators of the extreme party has

exercised a cooling effect even among English Radicals. The Congress meetings indeed, with the exaggerated speeches to which they give rise, recall those seasons of the year during which ancient civilisations allowed men to give full vent to their passions. Moderate Indian opinion annually devotes a few days to the popular cause, in order to have the right, during the rest of the year, not to think more about it; and when that epoch comes, the Congress leaders carry out the usual ceremonies of declamation and imprecation, a very different matter from the solemn and decent assizes of a great party really devoted to the good of the country. One of the most clear-sighted friends of the Congress party, Mr. A. O. Hume, in a letter written in 1904, advised a different attitude and a different policy. "Cease," he said, "your unjust attacks on the Government; recognise and proclaim the good that it has done. As for yourselves, stop foolish quarrels and depressing rivalries; substitute close and loyal co-operation, and reasoned and constant action. Give freely your time, your money, and your hearts; speak little and do much."

It is not for a foreigner to judge whether the Indians are sufficiently wise and self-possessed to take these counsels to heart, but what he cannot fail to observe is that the National party is far from representing any unanimous Indian opinion. It is certainly not representative of that amorphous, dull, but formidable mass of many millions whose horizon is limited by the cares of its daily bread. No doubt, in spite of its narrow and egotistical class views, the Congress is also working for the masses and in their interests. But the masses do not know this. They have witnessed great reforms in the matter of taxation, irrigation, education,

and so forth, but these had started long before the Congress was called into being, as they continue after it; and, not without reason, they give the credit for them to the District Collectors, who, in their eyes, embody the Government of India. The educated *élite*, capable of coming to a just conclusion on the merits of public men and the gratitude due to them, can only be reckoned at the outside by tens of thousands, and they are divided. The Hindus and Musalmans are still practically in hostile camps. The Hindu is by nature a trader, a middle class man, a Government functionary, a man of study, capable of learning, and of obtaining lucrative appointments by competitive examination. The Musalman is a man of action and an aristocrat, who trusts less to science than to good sense, who believes in race qualities, and who, incapable of successfully passing examinations, demands another criterion of merit, and counts on the English to see that he obtains justice.<sup>1</sup> History teaches him that his reasoning is just and his hope well founded, and accordingly, the more pronounced Hindu pretensions have become, the more the Musalman has withdrawn therefrom, a general statement the truth of which is not affected by the fact that a few Muhammadans take part in the deliberations of the Congress. As a class, the Musalmans fear the Hindus more than they dislike the English.

The National Congress has varied its programme from time to time; sometimes it has been hesitating and timid, sometimes clear and audacious. At one time (1886-7) its great object was to obtain a representative system, with all its consequences, in order to

<sup>1</sup> A striking instance of this was given in 1906, when an influential delegation, representing Musalmans from all parts of India, waited on the Viceroy, Lord Minto, at Simla, to set forth Musalman claims and aspirations.



be able to exercise a decisive influence over the acts of the Legislature.<sup>1</sup> That would have been revolution, and hitherto the party has only obtained, though these concessions are in themselves considerable, the admission to the Legislative Councils of members elected by District Boards, Municipalities, and the Universities, the right of discussing the Imperial and Provincial Budgets, though not of modifying them, and that of interpellation in the Councils.

If the programmes of the various Congresses were added together, they would form a portentous list. Every President thinks it desirable to attract public attention by some new claim. But all of them contain a common basis, which is reproduced every session in a series of resolutions that form the *cahiers* (to use a term of the period of the French Revolution) of this Indian *bourgeoisie*. The Congress held at Benares in 1903 was presided over by Mr. Gokhale, one of the best scholars of the Indian Universities, a man of heart as well as of learning, a powerful orator and experienced tactician, and a member of the Viceroy's Legislative Council, where he is the most acute critic of the Government. Here is a brief analysis of his speech. First, the usual complaints; then a declaration of

<sup>1</sup> That India should have the right of sending representatives to the British Parliament has been, and still is, one of the most ardent desires of the advanced party. It has been claimed by the *Mahratta*, a paper which represents the voice of Mr. Tilak, the leader of the extreme party, while Mr. Gokhale, at present the most active leader of the moderates, at one time made the demand also. Latterly, however, he has been content to claim for Indians admission to the Secretary of State's Council, a claim which Mr. (now Lord) Morley recently conceded. Even now there is nothing to prevent an Indian sitting in the House of Commons, but he must do so as the representative of some particular British constituency. This was the case with Mr. Dadabhai Naoraji, a venerable leader of the Congress party, who sat for some years for Finsbury, and Sir M. Bhownagree for several years a member for Bethnal Green. I imagine that Mr. Gokhale will in time also seek Parliamentary honours, and if he obtains them he will be a notable member who will have to be reckoned with.

loyalty; then an apostrophe to liberty; then a proposed policy in respect to the use which the Government should make of its surplus revenues if it desires really to develop the people; then a repetition of the old claims to better education and a larger part in the administration of the country; then the usual protest against the domination of a foreign race, which is diminishing the intellectual power and ruining the morals of the people; then a conventional attack against an economic régime which is impoverishing India, and which the orator declared had raised the rate of mortality from twenty-four per thousand in 1882 to thirty-four per thousand in 1904. Finally, we get an *exposé* of the orator's immediate demands which are as follows:—

(1) To give to the people of India a constantly increasing share in the direction of public affairs. This to be brought about by a reform of the Legislative Councils, by admitting Indians to the Council of the Secretary of State and the Executive Governments, and by a constantly increasing substitution of Indians for Europeans in the public services.

(2) Reform of administrative methods, for instance, the separation of the magisterial and executive powers now concentrated in the Collectors and their assistants, and the reform of the police, etc.

(3) Financial reform, in the direction of reducing military expenditure and diminishing the Government land revenue.

(4) To ameliorate the condition of the mass of the people by a vigorous development of primary education, by assisting industrial and technical education, by sanitary reform, and by relieving the indebtedness of the peasants.

No doubt the President was careful to say that all this was of the nature of a general theme offered for discussion at the Congress and for subsequent agitation in the country. It is, however, permissible to think that it is too vast a programme, and that the efforts of the Congress will become weakened by excessive dispersion. Mr. Gokhale would do well to learn in the school of Gambetta and take reforms in instalments.

This progressive movement of the National party is the only one which attracts general attention in India, but it is not the only one at work. It is accompanied by another which tends in a contrary sense, but without any sentiment of hostility to it. Both movements involve severe criticism of the British administration; but while the National Congress seeks its remedies from the West, the other section demands a return to ancient Indian institutions which have been unhappily abandoned by their Western rulers.

In a previous chapter reference has been made to the old communal organisation of the villages, and to the existence of village *panchayats*, which might be described as small governing councils responsible for the local affairs of the village. These *panchayats* have been almost extinguished under British rule, with its policy of direct relations in matters of land revenue with the individual cultivators—a system which has been long in force in Madras and Bombay, and which is tending to substitute itself for the old joint proprietary raiyats in the United Provinces and the Punjab—as also by the establishment of local civil and criminal courts. The principal village officers remain, but they have become Government functionaries, and the subordinate magistrates and civil judges cannot, as the *panchayats* did, enter into the details of village life. For some

years past it has been held by several thinkers that these *panchayats* were a very valuable element, and that they might still be resuscitated and render useful services. For instance, they might, in case of necessity, be entrusted with local measures of famine relief. It has been suggested, too, that they might be entrusted with the disposal of petty civil suits, or be enjoined to prevent persons getting too hopelessly into debt.

Mr. Malabari, the well-known Parsi journalist, has set forth a more ambitious scheme which he expounded in an open letter to Lord Curzon. The Government, he said, has committed the mistake, specially grave in an agricultural country, of neglecting the villages. There are still everywhere unoccupied lands which might be used for pasturage, but which are constantly threatened by individual greed. The State ought to place such lands under village communities, giving these the right of claiming them by suit even against the Government. The village community of old time should be resuscitated and become the administrative unit; it should be allowed to spend at its discretion the local cesses raised within its limits, while the *panchayat* would be the local administrative organ. It would, no doubt, occasionally make mistakes, but it would learn from these. Such measures would gradually result in the political education of the country, and in no long time the Government would perceive all that it might gain from the co-operation of the people. This plan enlisted much sympathy, and Sir E. Buck, a former Secretary to the Government of India, and an authority on agrarian matters, publicly congratulated Mr. Malabari on his initiative, but did not think the plan practicable. The *panchayats* worked admirably in the old village communities where the inhabitants were joint-owners

and had equal rights. In these circumstances a small council could usefully represent them all and bind them more closely together. Nowadays, however, these communities are on the point of disappearing. The villages in the south and west of India are made up of individual proprietors, with distinct and sometimes opposing interests. In Bengal and Oudh there are great proprietors who would strongly oppose the establishment of common ties among their tenants. Even in Northern India, where there is still theoretical joint-ownership in the villages, that feeling is materially weakening, and the tendency is towards distinct interests and a regular *raiyatwari* system. An interesting experiment has, however, been made in the direction of village autonomy by Major Popham Young, C.I.E., formerly a Colonisation Officer in the Punjab, and at present Settlement Commissioner in the Native State of Patiala. In this capacity he has started *panchayats* for *zails* (groups of villages) who dispose of petty cases, and, it is said, with marked success, their decisions being rarely appealed against to the regular tribunals. It remains to be seen, however, whether this system will survive the departure of its author. The Royal Commission upon Decentralisation, whose report has lately been issued, took much evidence on the subject of *panchayats*. The general wish is to see them established in one form or another; the main difficulty is the constant factions which split up villages and render co-operation difficult. The Commission have proposed that *panchayats* should be constituted when circumstances permit, and that they should deal with petty civil and criminal cases (without the intervention of lawyers), with village sanitation and other local works, and to a certain extent with the village schools.

The great difficulty, to my mind, is that in the more advanced parts of India, the *panchayats* would have insufficient moral authority. The attempts of the regular courts to use them as local arbitrators fail; the people prefer regular suits. Modern life, too, takes the *élite* of each village for schools, colleges, trades, and administration; those who remain are the least intelligent and the least active. This explains why they have never thought of protesting against so many administrative reforms which have tended to overturn the society of old time, such as individual property in land, the right of alienation, the British Courts of Justice, and so forth. Perhaps they do not entirely approve all that has been done, but they accept it, and if *panchayats* were established I doubt whether they would have recourse to them except on compulsion. They no longer believe in them.<sup>1</sup>

An attempt has already been made to establish "village unions." In Madras, where these chiefly flourish, they consist of large villages, or groups of villages, in which a nominated committee or *panchayat* is entrusted with the right of levying a small house-tax, and with the duty of local sanitation, lighting, and the up-keep of village roads. There are similar "local-fund unions" in Bengal, but they have done very little owing to lack of funds. Here, however, there are village unions for police purposes, with *panchayats* whose business it is to assess the local *chaukidari* tax, and to appoint and control the village *chaukidar* (watchmen). Following this idea, Mr. Rogers, formerly a member of the Bombay Council, proposed, in the discussions raised

<sup>1</sup> In the discussion on the Deccan Agriculturists Relief Act, 1879, one of the speakers said, "Our Deccan peasants are too independent, too irreverent, too lively, to accept blindly decisions of village elders."

by Mr. Malabari's letter, to establish circles of villages which should, within certain limits, have powers to dispose of civil and criminal cases, to deal with the local police, and to establish agricultural banks, etc. Mr. Dutt, a well-known writer on Indian affairs, who was formerly a member of the Indian Civil Service and a Commissioner in Bengal, and is now one of the ministers of the Gaekwar of Baroda, suggested a similar policy, but no practical application had yet been made of it when the question was once more considered by the Decentralisation Commission.

It would be wrong, however, to conclude from the remarks made in this chapter that the peoples of India are weary of British supremacy or administration. The loyalty of the great majority is still incontestable; and it extends to students, lawyers, Deccan Brahmans, and even to the Babus of Bengal and the chiefs of the National party. This was clearly shown by the universal and spontaneous mourning at the death of Queen Victoria. No doubt, there is a disaffected element; no doubt, too, the remembrance of 1857, and of the blind confidence which was then reposed in the Native Army, dictates prudence. There have also been Viceroys like Lord Curzon, whose disposition has led them to seek the welfare of the people by good administration, rather than to conquer their friendship (commencing with that of the popular leaders) by sympathy, and who have thus excited feelings of veritable hatred.<sup>1</sup> Nevertheless, even after the recent

<sup>1</sup> When Lord Curzon left India in 1904 after his first Viceroyalty, the native press expressed the hope that he would not come back. On this occasion a Bengali paper, the *Amrita Bazar Patrika*, gave vent to the following opinions on various Viceroys: Sir John Lawrence, it said, was not so good as his brother Henry, still he was sympathetic. The good intentions of Lord Mayo were neutralised by the formidable Strachey brothers, still he was the best friend the

triumphs of Japan, the attachment of India to the British Crown remains practically intact, and the responsible nationalist leaders know this. By themselves they will not make any attempt to overthrow the established Government, and would indeed be much embarrassed if it disappeared. If a cataclysm should occur, it will, as in 1857, be due to the Native Army, with which some of the more reckless agitators have already been attempting to tamper. It must, however, be admitted that British administration is not precisely popular, and yet if some exchange of territory with a Native State should involve the transfer thereto of British villages, you will find these at once breaking out into lively protest.

The programme of the National party receives very warm support from the native press; but let England satisfy a few of its aspirations, for instance, the general substitution of Indian for English officials and the grant of representative institutions, and you will see the educated Musalmans give vent to indignation which may become formidable. Their opinion, at any rate, is clear. British rule (they hold) is indispensable to the economic development and political education of India, and to work against it is to run counter to Indian interests.

The great argument of the reformers is that the British are oppressing and exploiting the country. There was a time when they were bold enough to criticise the Government for its Public Works expenditure, which they maintained was not carried out in the

Indian princes ever had. Lord Northbrook was a very noble Englishman, but, with one exception, he was the last of the good Viceroys. Lord Lytton, who succeeded him, came out expressly to make the Afghan War, which his predecessor had refused to undertake. Lord Ripon was an angel. Lord Dufferin was sympathetic, but violent. Lord Lansdowne and Lord Elgin brought India to a state of despair. As to Lord Curzon, he first of all restored life and hope by his speeches, but he deceived us later on.



interests of the people, but facts have here given them the lie. The Indian could no longer do without railways, and irrigation saves and enriches him. Now these leaders attack in another direction; they reproach the Government with its military expenditure and its strategic ideas, with the extravagant salaries and pensions of its European officers, and with the employment of Indian troops for purely English interests. To which England replies that she guarantees the peace of the country, and that while India pays for its own army, the ruling country bears the whole cost of keeping the seas clear. The truth is that this National party, like the monarchical party in France in our own day, is really irreconcilable to the existing system of Government, however loyal and resigned it may appear to be. The "reformers" do not love England or the English; they fear and respect them, and some would be glad if they could get rid of them; and yet, with strange inconsistency, they desire that the English should appreciate and love them. They charge the Government with burdening the common people with taxes from which these derive no real benefit. The reply of the English is not less clear: they accuse the reformers of having no love for the common people, of having, on the contrary, always oppressed and exploited them. "We had to interfere (they say) to protect the people against men of your class, against the zamindars of Bengal; and was that because we were opponents of aristocracy and privilege? Our whole history shows that this was not so. If we had to modify our attitude in India, it was to respond to the appeal of a whole people which was crying for assistance against oppression; and in this respect we are completing to-day that we began a century ago."

It is quite possible that both parties speak in good faith. England desires to administer, and feels that she does administer, in the interests of the people at large. The reformers feel that she is administering in her own, and there is some truth in that too. Had England taken as her motto, "India for the Indians," had she continued, following the ideas of Elphinstone and Malcolm, to consider her rule as temporary, she might, without inconsistency, grant to the National party gradual and increasing concessions, which in time would give entire autonomy to the Indians. But that is not now her aim. She rules India, and intends to go on ruling it. She has against her a Hindu minority; for her, other minorities—Musalmans, Buddhists, and Parsis—and the great mass of the Hindu population. She is ready to bestow on the National party honours and posts in increasing numbers, but she will make no compromise in the matter of principle. She will keep the command and direction of the vessel, and her Government will remain as despotic as circumstances will permit. Macaulay said in 1835, "We know that India cannot have a free Government, but she can have the next best thing, a strong and impartial despotism." Seventy years later, Sir Edward Baker, the late Indian Finance Minister, took up practically the same position. India is and must remain, he said, a portion of the British Empire, and must in the last resort be subject to the control of the British Government. Complete autonomy would be inadmissible as regards internal administration; still more so as regards military matters and external policy.

Any projects of radical reform would be sheltered against this firm decision, which can only be overcome by force.

Some well-intentioned people, however, have suggested one material change. The people, they say, loyal as they are, find no person in whom to personify their loyalty. The King-Emperor is a distant shadow. The Government of India is but a bureaucracy; there is a new Viceroy every five years, and his subordinates are being constantly changed. The District Collector and his assistants, the local representatives of Government whom the people can reach and comprehend, rarely remain in the same place for two years together. Indian loyalty is like a bird which finds no rest for its feet. It was a comprehension of this that inspired Disraeli, in 1875, with the happy thought of making Queen Victoria Empress of India. But why, it is said, not go further? Why not give India a member of the Royal Family as a sub-King? The people would respect him because he would be powerful, and would love him because they would have found a worthy object of love. The British alone can decide whether such a solution is feasible or desirable.

## NOTE TO CHAPTER X

### THE INDIAN EXTREMISTS

(P. 171).—The leader of the extremist party is at present Bal Gangadhar Tilak, the editor of two papers, the *Mahratta*, published in English, and the *Kesari*, in the vernacular. His reputation as a militant journalist and extremist dates from 1896, when plague and famine were rife in Poona. At this period the hygienic policy of the Government of Bombay was to stamp the plague out energetically; hence very severe measures—domiciliary visits and plague camps, to which the stricken were transported. These courses were very unpopular, especially as the domiciliary visits were carried out with the assistance of soldiers. The discontent rose to such a point that Mr. Rand, the Collector, was assassinated in 1897 as he was leaving a function at Government House held in honour of the Queen's birthday.

This crime caused an immense sensation throughout India, and the Government replied by quartering on Poona special punitive police which the town was to pay for (the payment was, however, rendered impossible by famine); by the arrest of two prominent agitators, the Natu brothers, under an old Regulation of 1827, which permits men who are judged dangerous to the public safety to be arrested and deported without trial; and by the prosecution of Mr. Tilak, who was sentenced to imprisonment for a seditious article which had appeared in his paper, the *Kesari*. Later on, Mr. Tilak, having been released from jail, was again prosecuted and convicted for a forgery, but the sentence was upset by the High Court. From that time he has enjoyed great popularity amongst students and members of the Young India party as a martyr to the popular cause, and is now, as already stated, the principal leader of the extremist party. Another extremist leader who has lately risen in Bengal, and was, not long ago, sentenced to imprisonment for refusing to acknowledge the authority of a British Court of Justice, is Bepin Chandra Pal.

They and their followers have conducted a violent press campaign, and engaged in personal propaganda, the energy of which has seriously disconcerted the more moderate leaders. In 1907 the unrest in the Punjab caused by their proceedings, and by some attempts to tamper with the loyalty of native regiments, led to the Government of India arresting Lajpat Rai and Ajat Singh, two of the local leaders there, and deporting them to Burma. This strong measure, which the agitators had thought impossible under a Liberal Secretary of State, caused a serious, if temporary, blow to the agitation, and after a few months Lajpat Rai and Ajat Singh were released.

As stated in the main text, the violent methods of the extremists have now led to a split between them and the moderate party, evidenced by the breaking up, in consequence of the violence of Tilak's partisans, of the Congress held in Surat in 1908. Curiously enough, on the occurrence of this schism, Lajpat Rai ranged himself on the moderate side.

Some of the Bengal extremists have lately, following the anarchists of Europe, taken to bomb-throwing.

## CHAPTER XI

### SOCIAL RELATIONS BETWEEN EUROPEANS AND INDIANS

Absence of cordial relations between Europeans and Indians—Exceptions, principally in the Native Army and along the frontier—Difficulties on the British side, owing mainly to more rapid communication with England—Obstacles on the Indian side—The present position : each race declines to be modified by the other—Future possibilities.

IN the matter of social relations between Europeans and Indians we come to one of those subjects where the foreigner must walk warily. Let him abstain, while stopping in India, from too ready acceptance of legends and anecdotes which, if they may at one time have been true, are no longer so to-day. The Anglo-Indian, whether an official, a business man, or a journalist, is in no joking humour when he hears some sweeping judgment on the relations of the two races from the mouth of a traveller. He will firmly contest both the alleged facts and the opinions based thereon. I will therefore pass prudently over these hidden fires and endeavour to be just to both parties.

The main facts are patent to the eye, and the discussions which they raise have become more acute of late years. The Indians have become more sensitive, and better acquainted with English life and with the significance of the attitude and methods of their rulers. They are indignant that, having been called upon to take

part in our civilisation, they are kept on the threshold of our society ; and with the diffusion of education and the increase of their pretensions, what was formerly a mere society difficulty is developing into a political danger. Not long ago the highest personages in the Indian Government, Lord Curzon and Lord Kitchener, thought it necessary to appeal to public opinion, and to have recourse to rules and even to Courts of Justice in order to modify an attitude on the part of the Europeans which they deemed undesirable.

With very rare exceptions, chiefly made by and on behalf of the Parsis, English and Indians have only business relations, and do not meet in the ordinary functions of society—at dinners, dances, teas, or picnics. Some princes and high native officials appear at official receptions ; the Viceroy in the course of his tours is welcomed by the Rajahs ; English noblemen travelling in India are afforded by Indian chiefs the royal pleasure of a tiger shoot ; but social intercourse almost stops there.

There is more, however, than mere abstention from social relations ; there is active repugnance and hostility. Englishmen will not join volunteer corps if Indians are admitted thereto. British soldiers will assault, plunder, or even kill natives. If they are prosecuted, a European jury is prone to shut its eyes to the evidence ; while, if they have to be convicted, European opinion is moved to the point of addressing remonstrances to the Government of India.

For this race antipathy the British mercantile community is as much or more responsible than the officials ; but it is the latter who are chiefly attacked by native opinion, since the British official, while benevolent and sympathetic towards the poor, tends to be stiff and

patronising towards the well-to-do. "The Indian Civilian," I was told by a Brahman member of the Viceroy's Legislative Council, "does not wish us to rise. He has summoned us to climb with him the rugged paths of knowledge, but he is jealous of our progress. When we learn his language, understand his ideas, and attain his intellectual level, he regards this not as a homage which he should welcome, but as an encroachment to be resented. We used to esteem them for their character, and we flattered ourselves that they would welcome in us just and independent men, but they only want baseness and servility, and their favours go out to flatterers and time-servers."<sup>1</sup>

Another Indian, a Bengali member of the Indian Civil Service, said to me, "My European colleagues, who are, after all, only my equals, for I have passed the same examination and held the same appointments as they, treat me as an inferior and patronise me. The only man who has really treated me as an equal is an Irishman."

On the other hand, the English reply, "It is not we who keep the natives at arm's length; it is they who hold aloof from us. Caste and its rules, to say nothing of their personal tastes, prevent intimate relations. When the Viceroy visits a great Hindu chief, he is received with sumptuous hospitality, but he and his friends will have to dine alone; their host will only appear to propose and reply to formal toasts. Our soldiers, again, are said to attack peaceable villagers, but these peaceable villagers lie in wait for our men

<sup>1</sup> On the other hand, I was told at Poona, in 1901, by an Indian who is honoured by his countrymen, that the real cause of aloofness is the absence of frankness on the part of the natives. "Even among ourselves," he said, "a native who wishes to speak to me about a matter which he has at heart will only bring it forward at the very end of the interview."

while shooting, and maltreat them. Let a grain of shot go astray, and a whole village is up to threaten and assault; while the man who has struck a European is honoured among his own folk. You, a Frenchman whom they have no reason to dislike, were received yesterday with formal politeness, and even deference, by a Brahman judge of the High Court; but after your departure the priests were called in to purify the house. Their women are *purdah*, and the zenana is naturally closed to us, as it is to Indian males; but it is hardly open even to our women. Their visits are tolerated, and meetings accepted, but the natives decline any real intimacy. A great English lady, whose character is in keeping with her husband's position, goes to see the *purdah* wife of a high native magistrate; her husband will be present at the interview, and his wife remains standing. You will find native chiefs who keep their women absolutely secluded; even a princess of the blood Royal would not be allowed to see them. They allege the timidity of their women and their ignorance of our language and usages, but we know that the real obstacle is the mistrust of the husbands."

Such is the general position, which I have not described too darkly. On the other hand, we must note some exceptions. The British officers of the Indian Army, and the frontier officials, are fond of the natives, their companions in sport and war. The Englishman adores bravery and respects pride; he meets both among the native soldiers, on the north-west frontier, and in the Punjab and Rajputana. A British officer's native orderly is not a menial servant; he only looks after his master's weapons, but he is devoted to him, and if he is ill will pass nights by his bedside; while on the field of battle he will save him or die with him. On



actual military service, the soldier is disciplined and respectful and the officer stiff, but outside they talk freely. The soldier asks advice from his officer, and will consult him on his family affairs or about a law-suit. The officer listens and helps, and, outside the barracks, will walk with a sepoy and speak to him familiarly. Here there is a *rapprochement*, due to common dangers and common tastes, but it is an exception.

Real intimacy between the two classes is, moreover, rendered difficult by essential differences and mutual ignorance. The Englishwoman finds it difficult to realise that her ayah, whose devotion she appreciates, is of a low caste and keeps away high-caste Indian ladies. "And can innocent English girls," it is said, "or married ladies, who are treated with chivalrous respect, and lead public opinion, be really intimate with Indian women, who are so much nearer a state of nature and are slaves to their husbands?" The men, too, share this repugnance. A young Englishman once said to me, "The mere smell of a native woman would prevent one marrying her."

The Anglo-Indians of fifty years ago were, however, less fastidious. There were then none of those fast steamers which bring Bombay within eleven days of Brindisi, and they could only leave India on the rare occasions of furlough; while in India itself the absence of railways prevented their travelling to hill-stations. They consequently had to live more or less alone, for English women did not then come to India in the numbers that you see to-day. They sought the society of native notables, and did not disdain companionship, or even marriage, with native women.<sup>1</sup>

<sup>1</sup> Such marriages are now practically unknown, and other relations are rare and carefully concealed. The Indian half-castes now owe their origin mainly

To-day, with three months' privilege leave available every three years, they rush to England, take wives there, and re-attach themselves to European life and civilisation. They have no further social use for the Indians, and—fatal consequence—they no longer see the necessity for mixing with them, understanding them, and gaining their attachment.

Let us, however, be just to the English. If friendly relations between the two races are rare, similar relations are, in truth, also uncommon in Indian society itself. Eighty years ago, Jacquemont remarked that nothing was more rare among the natives than even the most feeble social disposition, and there has been no real change since. The wife of the well-known, and lately deceased, Justice Tyabji of the High Court of Bombay said in 1903, at the annual meeting of an Indian ladies' club, "We complain that Europeans keep aloof from us, but that is largely our fault. I ask you how many among ourselves, Hindus, Musalmans, or Parsis, want to meet together? Is it pride or reserve which keeps us apart? Is it not rather a difference in manners, habits, education, dress, language, and religion?

to the relations of private soldiers with girls of the country, and are not legitimised by subsequent marriage. A man who had lived fifty years in India gave me the following note on this subject: "Formerly, when British officials, civil and military, rarely quitted India and made their home in the country, many had an Indian wife, and children by her. Nowadays this would be an absolute disgrace. An English gentleman does not marry a native, and does not even make her his permanent mistress."

It sometimes happens that a young English girl will marry some Indian who has gone to England to study, but she does this in ignorance of the consequences, for when she arrives in India she will not be received in English society.

Eurasians, the offspring of mixed unions, are, as a rule, only able to marry within their own community or with English of a quite low class. Many of these Eurasians are illegitimate children who have been brought up by Portuguese missionaries, and bear Portuguese names. They have their share in the lower grades of the public services, but they are less satisfactory, as a rule, than Indians of pure blood.

Let us," she added, "begin by union among ourselves." These are significant remarks. Indians who desire social intercourse are fond of saying to the English, "Get into the habit of meeting us; what matters it that we cannot dine together, or include our wives? Let us start by sex-grouping, later on we shall do better." The remarks of Mrs. Tyabji furnish an answer to this.

The truth is that close relations between the races have for the present become impossible, because they have become useless. *Savants*, travellers, or Englishwomen, prompted by curiosity or vanity, may penetrate into new, and ordinarily inaccessible, surroundings; but the Anglo-Indian, whether he be an official or a non-official, is usually interested in India only by reason of the income he derives from it and the use which it is to his own country. He has come from England with a classical education, and, from want of time and preparation, remains a stranger to the civilisation, history, and aspirations of the Indians. He no longer makes India his country and his home. He has come there for five and twenty years or so; and, incredible as this may seem, his whole existence there is spent, as far as possible, within his own family and among his compatriots, with his eyes perpetually fixed on England and the hour of departure.

Another fact, even more general and true, is that the Englishman, official or non-official, is terribly hard-worked. The official has no leisure. He gives himself entirely to his duties, which he makes it a point of honour to discharge conscientiously. When, after seven or eight hours of absorbing work, he quits his office, his mind is no longer capable of a new task; irresistible necessity leads him to seek relaxation in his national games and in the company of his compatriots. Personal

relations with the natives are fatally, though not deliberately, sacrificed.

The Indians, on their side, now affect to care less for such relations. They know that they would find them useful, and they would have enjoyed them had they felt that the English were accepting them spontaneously, but to-day their pride has been hurt by the resistance they have found. Let us not be deceived by the fact that they still make a great grievance of want of intercourse in their conversation and speeches. What they now seek is political arguments and not social claims.

Finally, there is this insurmountable obstacle to cordial relations between the two races, that each of them emphatically refuses to be modified by the other. The Indians are determined to make their sons pure Indians. They quite appreciate the science and material civilisation of Europe, and they hope that some day their children will obtain a share therein; but they require that these children should be first thoroughly imbued with the civilisation, religion, and morality of India. It is only when their sons are eighteen or twenty years of age, when their character has been formed and moulded on an Indian type, that they will hand them over to European teachers, or that the more advanced will permit them to cross the sea in order to study in the great English Universities. That, if I mistake not, has, for the last thirty years, been the Japanese idea also.

The English, too, have a similar point of view. They consider it essential to make their sons Englishmen, and for that it is not enough that they should have pure English blood. Education is as essential a factor as heredity. Consequently, they send their boys

and girls, whilst still of tender years, to England, and place them in boarding schools, under teachers who will furnish them with an English soul and character. Then, when the boys have grown up, and have passed through Sandhurst or into the Indian Civil Service, they return to India. But they will now be armed in triple steel—English to the backbone, invulnerable to exotic influences, to Indian women, to opium, or to *nirvana*.

How can two such differently moulded elements fuse in any way? Some day, perhaps, when British officials have become better acquainted with Indian life and give more attention to the political part of their rôle, they will be capable of a better understanding of the peoples they rule and desirous of closer contact with them; and we may hope that the Indians, on their side, will then have become more just to the Europeans, will have freed themselves from those instincts of cunning and violence which long servitude has imposed upon them, and will be more inclined to frank and sincere action. When this state of things has been attained, there will be closer relations, but never interpenetration.

Such, roughly sketched, is the Indian society with which we have been dealing. I have described its origins and diversities; I have endeavoured to analyse its thoughts, its beliefs, and prejudices; to describe its ambitions, and the hopes which it bases upon moral forces that it would be unjust to ignore and rash to despise.

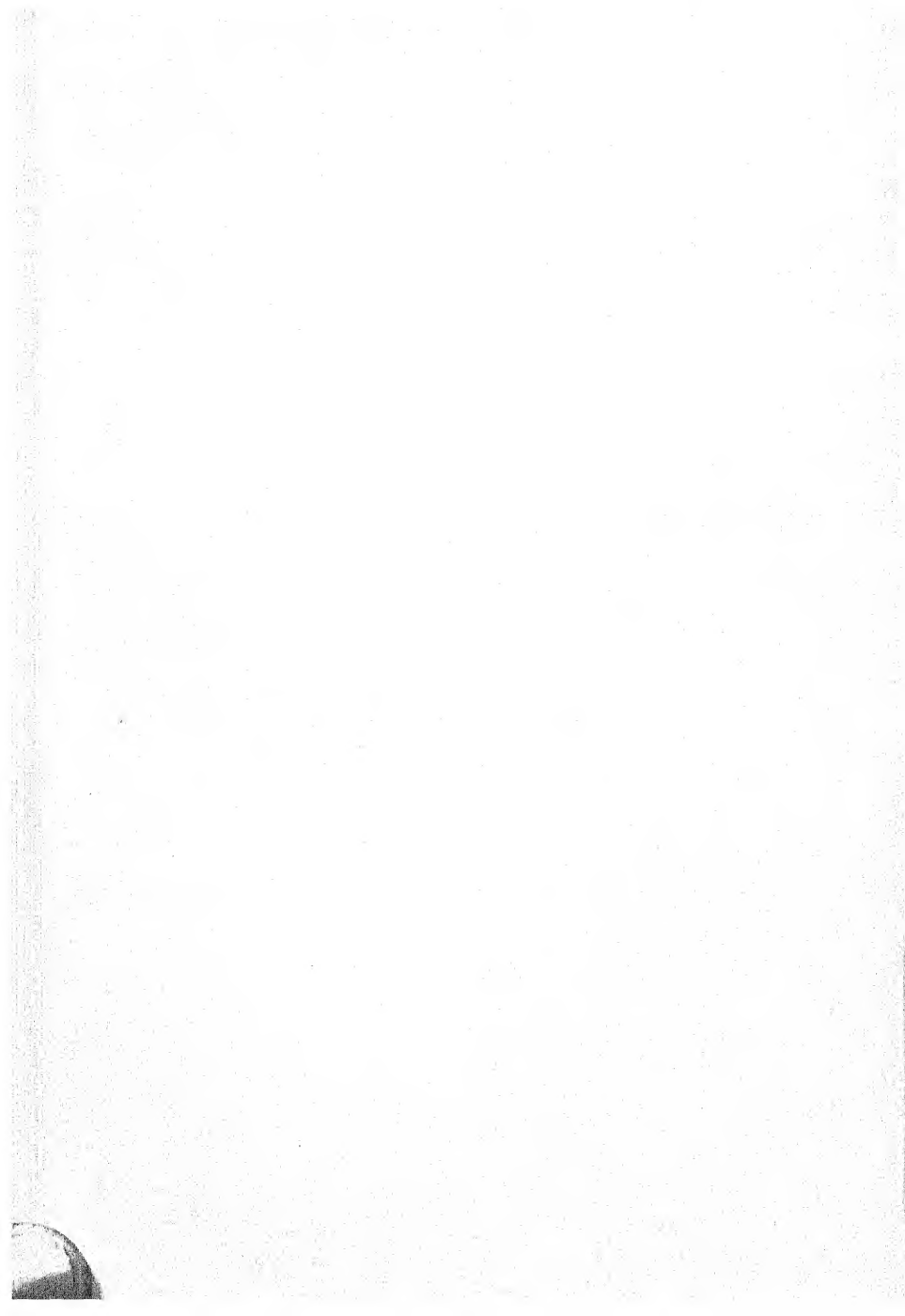
On another occasion I will describe its exterior life, its wealth and poverty, the extent of its aptitudes for work and production, its varied talents and modest wants. For the present, I am preoccupied with one important thought. Given a society such as I have

described, how can one approach it without shocking it, govern it without wounding it, and endeavour to reconcile its numerous and complex interests with those of the governing people?

That question will be the subject of the following book, *Britain's Indian Policy*.

BOOK II

BRITAIN'S INDIAN POLICY





## INTRODUCTION

### A NATIVE POLICY, ITS MEANING AND SCOPE

A "Native policy" is an aspect, and I might say an almost new aspect, of a Colonial policy. It is a modern, and essentially a contemporary, development. In France the *ancien régime*, with a few rare exceptions, such as Dupleix in India and Montcalm in Canada, had no occasion to (and did not) understand what Native policy meant. In the nineteenth century we made some timid, spasmodic attempts towards it in Algeria and Cochin China, and we have only applied it continuously in Tunis.

A well-regulated Native policy has a double aim. Its first object, which, though interesting, is the less important and the less difficult, is to induce the native population to supply, of its own free will, an abundant and cheap supply of labour to European industrial and agricultural enterprise, a necessity which was naturally not felt in times when slavery prevailed. The second, which is the essential, is to prepare the subject people to accept the supremacy and the government of foreigners. That, again, was a matter which did not trouble the minds of conquerors who set before them the bold policy of conversion and

assimilation, convinced that they were conferring on the natives an indisputable boon by communicating, or rather by imposing, their own religion, laws, justice, and administration. The British in India have restricted themselves mainly to this second aspect of a Native policy. Their purely agricultural enterprises have, as a rule, been rudimentary, while they have been able to recruit without difficulty the labour that they require for irrigation, railways, and industrial enterprises. India is not, and has never been, a British colony. England has never attempted to locate a European population there, although at the time of her first settlements in the seventeenth century, this would not have seemed paradoxical. Richelieu and Louis XIV. had, in like latitudes, attempted, and partially succeeded in, the transplantation of a white population, the Creoles of the old French colonies. Nor in more recent times has Great Britain ever thought of following the method adopted by the Dutch in Java and by the French in Indo-China and in Madagascar—that is, to settle in the conquered country a limited number of colonists who live dispersed among the native population, and who, as possessors of capital, and as founders and directors of industrial enterprises, require the co-operation of native workmen.

Whether for the purpose of protecting its own commercial monopoly, or because it foresaw the difficulties which it would incur from colonists impatient to get rich, and, as a rule, not very scrupulous as to means, the East India Company, whose rule in India only ceased in 1858, was always careful to discourage English settlers. For instance, in the Charter Act of 1813 the Governor-General is enjoined to protect the persons, property, religions, and customs of the natives, and is given the

right of deporting from India anybody who may threaten these.<sup>1</sup>

Such measures were calculated to keep off Europeans who might have the idea of settling in India. With the exception of a few adventurers, the Englishmen there consisted of the civil, military, and commercial servants of the Company. It was only in 1833, when the Company's Charter was again renewed, that the Liberal party, then in power, inserted a clause permitting subjects of the King to settle in British India, and to trade and acquire lands there, but even then restrictions were attached which showed distrust of such settlers and appreciation of the inconveniences which they might cause.<sup>2</sup>

In spite of the full liberty it now enjoys, British emigration to India is still very inconsiderable. As against 294 million natives, there are only 170,000 British of all ages and sexes, and they include 85,000 soldiers and public functionaries. In Java, on the other hand, there are 70,000 Dutch against 28 million natives; and in Indo-China 10,000 French to 20 million natives.

The British residents in India are thus not likely to cause any serious trouble to the Government; and it should be noted that those of them who are not soldiers or officials are mainly traders, and are concentrated in

<sup>1</sup> In 1813, when the Company's Charter was renewed for twenty years, it was obliged, by the pressure of mercantile opinion, and in spite of the views of men like Warren Hastings, Lord Teignmouth, Sir John Malcolm, and Sir Thomas Munro, to give up its former commercial monopoly in India, except in regard to tea; but, on the other hand, it obtained the restriction of European immigration there.

<sup>2</sup> Soon after the Charter Act of 1833, Macaulay, speaking of the European settlers, observed that they claimed to be a privileged order in the midst of a servile population. It was to prevent such an undesirable state of things that Parliament had armed the Government of India with powers which, in his opinion, it would not deserve to enjoy if it had not the courage to exercise them.

the large towns. There are planters in some districts, especially in Assam, where they grow tea, and on the Nilgiris, where they produce tea and coffee; but there are no European agriculturists, such as we find in Tonkin, in Annam, and especially in Java. British India has never known the difficulties and abuses which arise from the presence of men of this latter sort, men who have settled in the midst of the ordinary population of the plains, who dispute land with the natives, and who require labour from them. That is an aspect of Native policy with which the British Government has not had to deal. It has been able to concentrate itself on the grave problem of giving satisfaction to 300 million human beings; and from this point of view, and in spite of the troubles of the present moment, the British administration has achieved one of the most splendid triumphs of a well-organised Native policy.

The insistence with which I have dwelt on this term, Native policy, may astonish and weary my readers. Is there, they will ask, such an extreme difference between the government of Asiatics and of Europeans? Both require from their Government security, justice, and facilities for obtaining wealth. To secure them these objects is a matter of elementary administration—why dignify it with the title of “Native policy,” and distinguish problems which seem to be identical as between the two races?

But such identity is only superficial. There is, no doubt, a sense in which every act of Government for the benefit of its native subjects may be called a matter of Native policy—for instance, the construction of a railway or a canal, the enactment of a code, or the establishment of a court of justice. We must, however,

distinguish between matters of administration, such as these, and true Native policy. The latter endeavours to persuade the subject peoples that they are the first care of the Government, while mere administration has also to concern itself with the European settlers. Administration, again, confines itself to material objects; a policy looks rather to moral interests. Now, while the material interests of the natives may sometimes coincide with those of the settlers, so that the same measures will benefit both, this will never be the case in regard to their moral interests. Here it is necessary to take special and distinct steps in order to impress upon the natives that the Government thinks of them, and of them only. It is not enough to give them good administration, for they may ascribe the growth of prosperity to their own exertions; they must be led to feel the benefits of foreign rule, and to accept instead of merely enduring it. That, however, is a difficult course. In the first place, it implies the desire and the capacity to study and comprehend the natives—to delve into their institutions, their sentiments, their motives, and their ambitions.<sup>1</sup>

The Government, further, must have the will and the power to free itself from European prejudices, and to repudiate, if found to be mistaken, administrative or political doctrines which it has hitherto accepted. It must discard commonplace solutions, and must even be prepared to abandon what seems to be a straight road

<sup>1</sup> As an example of errors that ought to be avoided, I may cite the fact that soon after the annexation of Upper Burma, the dead body of a white elephant, an animal which the Burmese regard with special reverence, was dragged through the streets of Mandalay without any mark of respect. Again, when a residence was built for the then Chief Commissioner at Mandalay, it was constructed in the Burmese style, but with less elaborate roofing than was customary for the palaces of the Burmese kings. This was a gratuitous confession of inferiority.

in favour of untried paths. A Native policy, too, often requires a Government to renounce the pleasant rôle—the easy part, as so many people believe nowadays—of an earthly providence; to abandon the habit of continual intervention; to wait, it may be for long, until it can intervene expediently. It must keep silent while men act and events occur, must remain apparently inactive, and must let itself be suspected and attacked. It must occasionally even side against its own countrymen, like the mother who, in a troupe of turbulent children, only ventures to chide her own. It must know that a law is faulty, and yet resist the temptation to alter it; it must bear for a time with untrustworthy or incapable officials. And yet it must not allow non-intervention to become a fixed rule; it must seize the fitting opportunity for inaugurating desirable changes.<sup>1</sup> It will realise that the subject peoples are firmly attached to their old customs and institutions; that they find our civilisation strange and repellent; and that they must be led to it very gradually, gently, and patiently, by evolution from their own traditions. Their eyes cannot be opened forcibly; they must be persuaded to see for themselves. I do not say that the English have been the first or the only people to see the necessity for a Native policy of this description; nor, again, that they have made no mistakes in treading this perilous ground—their history abounds with such. But they have practised as well as theorised; they have carried out a definite Native policy, as I understand the term, at intervals for

<sup>1</sup> As was done, for instance, by the Marquis of Hastings in 1817-18, when the increasing raids of the Pindaris gave him the opportunity of departing from the policy of non-intervention in regard to Native States enjoined by the Company, and enabled him to affirm British supremacy in India.

over a century, and continuously during the last fifty years.<sup>1</sup>

Aristocrats themselves, their first relations in India were with the princes and nobles ; but as they progressed and came to understand the structure of Indian society, they gradually got down to the mass of the people. Their new connections, however, never led them to break off the old ones. Even when the native princes seemed useless to them, they were maintained and protected, and were often restored to territories which they had lost. They made use, too, of recently conquered enemies. Thus, in Burma the ministers of King Thibaw were utilised by the new British Government, and those of them who still survive are in receipt of pensions, and are from time to time consulted.<sup>2</sup>

This policy has borne fruit. It was no doubt rudely tested by the Sepoy Mutiny in 1857 ; but military and political errors explain that formidable incident. And though the English were, for the moment, discouraged by it (both civil and military officials had been so sure of their men), they once more concluded that it was possible to conciliate the natives, and resumed their Native policy.

They extended it, in fact, to a larger area ; they improved it, and rendered it more methodical and more kindly.<sup>3</sup>

<sup>1</sup> The British residents in India occasionally complain that the Indian Government sacrifices their interests to those of the natives. Thus, a few years ago the Chambers of Commerce of Calcutta and Madras, and the Anglo-Indian Defence Association, addressed a strong protest to the Government of Lord Curzon in regard to certain prosecutions of Europeans for assaults on natives. The Government showed, in reply, that it had been perfectly impartial, but the significant fact is that it had thus to defend itself.

<sup>2</sup> At the present day the allowances paid throughout India to chiefs who, for one reason or another, have had to be deposed or dispossessed amount to 40 lakhs of rupees a year.

<sup>3</sup> One meets many Englishmen who have the most lively sympathy for

No doubt they have hitherto failed to bridge the abyss which separates Indian from European thought. India as yet only possesses a handful of men capable of understanding the soul of our civilisation. What is called the educated class, the group (mainly Hindu) to which the British have rashly conceded secondary and University education before having taught the mass of the people to read, is as yet only a very small portion of the total population. And instead of being satisfied with British rule, the members of this class are constantly agitating, and claiming larger rights, and a greater number of appointments.<sup>1</sup> So far as they are concerned, the Native policy of the Government seems to have failed; but the Musalmans, and the great mass of the Hindu population, far from sharing hatred of the foreigners, whom they hear denounced by the "educated," understand what they owe to British rule in the shape of security, order, and justice. They feel that, were the British driven out, they would but change masters, and probably change for the worse. That is why, in spite of what has been

native ideas, a fact which strikes a Frenchman as novel and curious. We Frenchmen think ourselves closer to the natives, and claim to like and understand them better. We get nearer to them, it is true, by our freedom from race prejudice, caste, and nobility, while the English hold to blood and rank; but I doubt whether we really understand them better, or have a truer sympathy with their aspirations. We accept their society, but we despise or ridicule their ideas. On the other hand, one often finds Englishmen full of enthusiasm for the people among whom they live. One is an ardent lover of the Buddhists, another of the Chinese, a third of the Egyptians; and their zeal often leads them to understand the native mind better than we do, in spite of our more easy and friendly relations.

<sup>1</sup> Taking India as a whole, it may be reckoned that about 90 per cent of the population are satisfied with personal government, look to the Collector and his assistants as their earthly providence, and would like to see justice done locally under a tree. The portion of the population which demands a more elaborate government, a larger number of posts for natives, and a greater control by them over the Government of India, does not exceed 2 per cent for the country generally, though in a specially advanced province like Madras it may extend to about 6 per cent.



said on the other side, and notwithstanding apparent difficulties, the British *Raj* in India remains firm. If it is shaken it will not be from within. That, too, is why the methods, and even the errors, of its Native policy deserve careful study.

## CHAPTER I

### THE NATIVE STATES OF INDIA

British policy towards the Native States—Its variation and present direction — Methods adopted for improving the government of the States—Education of young chiefs—Administration during minorities—Character of past and present Native State administration — Attitude of the chiefs towards progress — Evolution of Reforms—Results—The chiefs and the Government of India.

POLITICALLY India is divided into two parts, British India, and the India of the chiefs. British India consists of 1,087,000 square miles, with a population of 232 million.

The Native States cover altogether 700,000 square miles, with  $62\frac{1}{2}$  million inhabitants.

The States and their princes vary enormously in character. They include powerful rulers of veritable kingdoms, and simple tribal chiefs, or owners of a few square miles. Some are almost savages, others possess a relatively high civilisation. In all there are 694 chiefs in India, but of these only 108 rule over territories exceeding 500 square miles.

The great Musalman State of Hyderabad extends over some 83,000 square miles, and contains about 11 million inhabitants. Mysore, again, which played its part in French history from the days of Louis XV. to those of Bonaparte, has 29,000 square miles and

5½ million inhabitants; and Baroda, 8000 square miles, with 2 million people.

The collective revenues of the Native States have been roughly, and probably not very accurately, estimated at 250 million rupees a year, of which Hyderabad has 36 million, Mysore, 19 million, Gwalior, 16 million, and Baroda, 12 million. As regards the rest, there are 29 States with an income of between 1 and 10 million rupees, while, at the other extreme, 166 have only between Rs. 3000 and Rs. 10,000, and 121 less than Rs. 3000.

A domain consisting of 700,000 square miles, with 62½ million inhabitants, with a revenue of 2½ crores of rupees, besides natural resources, of which the chiefs have not yet been able to avail themselves, offers natural temptations to annexation, and provokes the question why England has resisted these. For to-day, far from wishing to suppress the princes and absorb their territories, she maintains them, consolidates their power, and sometimes even re-establishes them. That, however, was not always her policy.

There was a time when the British power in India was very insignificant, and was lost among a mass of petty chiefships, of whom the Great Mughal affected to take little account. It gradually and ably raised itself until it took rank among the greatest of the Indian powers. Then it imposed its alliance on the rest, and finally conquered and annexed a portion of their territories. Between the Mughal, the Marathas, and the Sikhs, the British manœuvred so ably that by the end of the eighteenth century they were already the paramount power in India. In the first half of the nineteenth century they extended their dominion from Cape Comorin to the Himalayas, sometimes by sheer

force; sometimes, like the French jurists from the time of Philippe de Bel to that of Louis XIV., by adroit use of theories and usages. They affirmed, for instance, the doctrine that a State lapsed when the last chief was childless and had made no valid adoption. On the map of India British territory is generally marked red, and that of the native chiefs yellow, and it seemed likely, as Ranjit Singh had predicted in 1832, that the red would soon become universal, when the Sepoy insurrection of 1857 gave England a salutary warning.

This insurrection was not due to the instigation of despoiled and threatened princes. But though it was produced by a number of different causes, some of them more serious than others, there can be no doubt that one of the factors in the rebellion was popular exasperation at the overthrow or shaking of native thrones. It was idle to ask the peoples to judge the native rulers by their acts; they remained attached to them by the mysterious ties of *prestige* and custom. Many of these rulers, it is true, were not of the race or the religion of their subjects; they were often alien conquerors or usurpers. Nevertheless, while the deposed chiefs usually resigned themselves to fate, and lived quietly on the pensions they received from the British Government, their subjects, though better governed by the English, remained resentfully loyal to their old masters, and rose in revolt, or thought of doing so. Curiously enough, it was the surviving princes who restrained this movement, and thus contributed to save the British power. Before they had had time to act in concert for its overthrow, they began to think that the British power would resist the assault made on it; and the most clear-sighted among them thought it desirable to remain loyal; and their

loyalty saved the situation. Interest, if not gratitude, opened the eyes of England, which realised the part which the princes and the States had played during the mutiny. Had they not existed, a huge wave of insurrection would, in an India entirely British, have swept over everything. The States served as breakwaters, and the English henceforth thought it desirable to maintain them—a decision which led to an entire reconstruction of their native policy.

Hitherto they had troubled themselves little about the government of the Native States. Ample precautions had been taken against coalitions by the princes. They had been kept isolated from the foreigner and from one another, and they had been forced to keep the peace with England and with one another. But whether they were good or bad rulers was a matter of which the British Government took little account; its desire was to abstain as far as possible from internal control or intervention. Such intervention might lead to war and annexation, and England for many reasons desired neither the one nor the other. India was then ruled by the East India Company, and the Home Government considered the Company's dominions to be vast enough, while the British Parliament had, on various occasions, emphatically repudiated a policy of conquest, although it did not disavow Governors-General who annexed territories in spite of its resolutions. It was perceived, however, that this policy had not given the expected results. Never had the British annexed so much as after they had decided to annex no more. Abstention from interference in the affairs of the Native States had rendered drastic interference necessary. Princes oppressed and tortured their subjects, and the victims appealed to the British Govern-

ment, which was finally compelled to assist them. It became necessary to remonstrate with princes who had been left to themselves, and if remonstrance was of no avail, to use force in order to secure respect for the rights of the people and for outraged morality. Accordingly, at different times, in dealing with the rulers of Hyderabad, Mysore, Oudh, and other States, it had been necessary for the British to pass from tolerance to repression, and to despoil them of the whole or a part of their dominions, while the Government incurred the distrust not merely of the princes, but also of the people on whose behalf it had acted.

After 1857 all this was changed. The British Government resolved to maintain the Native States and dynasties, and to remove from its path anything which might hamper this policy. Hereafter it would take no advantage of the extinction of ruling houses. It assured their perpetuity by permitting the adoption of a successor, even after the death of the late chief, and it engaged to do this, not merely by a solemn proclamation issued by Queen Victoria, but a series of *sanads* or charters issued to individual chiefs during the years which followed the mutiny. These *sanads* were, however, bilateral contracts involving obligations on the part of the chiefs, as well as on the paramount power. The chiefs were bound to be loyal to the Government of India, and to abstain also from any attack on their neighbours. Their States were guaranteed to them, but the defence of these passed to the paramount power. That, however, was not a new obligation; it had been imposed on dependent Native States since the time of Lord Wellesley, and this policy had helped to preserve British rule at the time of the mutiny. Enforced peace had by that time rendered

the chiefs unfit for war, and to most of them a pacific attitude had become a matter of preference, as well as of interest.

Now, however, the chiefs were not only bound to be loyal and peaceful, but to render active assistance to the rulers of India in their Imperial task, and, above all, in the matter of just government. They found this undertaking, especially at the outset, a most unpleasant one. To govern justly implied abstention from the innumerable caprices of Oriental rulers, from the immediate satisfaction of their desires, from habitual waste, from arbitrary methods of justice, from adding to the State resources by illegal exactions and confiscations, and from similar time-honoured methods of despotism. To govern justly also implied submission to the advice of a political officer. The position of the political officer in a Native State depends upon its chief. He may be a friend and confidant, a respected and loved adviser; or, on the other hand, a guest imposed by the Government of India, an irritating witness of the chief's mistakes, a counsellor who is unwelcome and feared, because he can back his counsels by warnings, which, if not attended to, will lead to action by the all-powerful Government of India, and, in the last resort, to deposition.

There have been numerous instances in which chiefs, after due warning and time given to them to amend their ways, have been finally set aside, and in these days punishment follows close on threats. Formerly the patience of the English seemed inexhaustible—the kings of Oudh had been vainly warned for whole decades. Nowadays a native chief's breach of his engagements would be promptly dealt with, unless perchance he was one of those specially powerful rulers

whose very power places them, for the time being, above repression.

The Government of India acts, however, in a perfectly loyal way. It does not lay snares for the chiefs : it aims only at ameliorating, with and through them, the condition of their peoples. Far from endeavouring to put them in the wrong, it is careful to warn them against possible errors. It assists, guides, and instructs them, and trains them by experience. It rejoices in their progress, and is liberal in its encouragement, and in its grants of honours for the accomplishment of their duty. Finally, when circumstances permit, it gives them a practical example of good administration by itself assuming the reins of government during a minority, while at the same time it carefully prepares the minor prince for his approaching rôle as a ruling chief.

The age of majority of the native chiefs was for a long time fixed by the Government of India at eighteen, but the tendency is now to postpone it to twenty-one, as in the case of the States directly dependent on the Governments of Bombay and the Punjab. When a minor succeeds by the death, abdication, or (it may be) deposition of his natural, or adoptive, father to the throne of a Native State, the regency is sometimes placed by the Government of India entirely in native hands. It may be confided to the widow of the late chief, assisted by ministers, or to a native *darbar*, or Council of State, to which the British Resident or Political Officer is sometimes added. Occasionally, too, the administration is placed in the hands of a partly British and partly Indian Council, in which the British element must necessarily have the final word.

I will take, as an instance of British intervention



in the affairs of a Native State, the State of Mysore, which about 1830 was pitifully misgoverned by its Maharaja. The counsels and warnings of the Government of India having proved ineffectual, the Maharaja was deposed, and the State was placed in the hands of an eminent British administrator, who is still gratefully remembered there, Sir Mark Cubbon. He introduced a system of methodical and upright rule, which restored order and prosperity. At the outset, in order not to hurt the feelings of the people, and to conform to the instructions received from the East India Company, the new administration endeavoured to maintain existing institutions and to avoid introducing any system which could not eventually be worked by native agency. It was soon perceived, however, that the existing system and *personnel* were rotten to the core. The people were ground down by innumerable taxes and cesses, and there was a whole army of useless and badly paid functionaries who preyed upon the ryots. (By 1855, 769 taxes had been abolished.) The Maharaja, again, was heavily in debt; he owed 80 lakhs of rupees in 1862, and added 10 more lakhs later on. The British administration organised a police force, started a forest service, obtained an excess of revenue over expenditure, and accumulated large balances. But when, after the death of the Maharaja in 1868, it was decided to restore the State to his adopted son, when the latter should have attained his majority, care was taken not to hoard money which the chief might waste. Great public works were undertaken—roads leading to and through remote districts, the repair and construction of tanks and irrigation channels, etc. And it was then, and then only, that the State was given back (in 1881) to the now adult heir. This concession to

abstract justice, and to its pledged word, did not, however, prevent the Government of India from taking precautions for the maintenance of the work which it had accomplished. The fate of five million of people, accustomed for half-a-century to regular and honest government, could not be left to undesirable possibilities. Accordingly, the instrument of transfer, which restored the State to the new Maharaja, contained certain prudent stipulations. A distinction (unknown in most Oriental States) was made between the ordinary State budget and the civil list of the ruler; all the laws and regulations enacted during the British administration were to remain in force; and steps were taken to provide regular legislative judicial and revenue systems based upon British models. It was also stipulated that no fresh taxation was to be imposed except by formal enactment.

The prince, who thus took over the administration in 1881, died in 1894, leaving in his turn a minor son, and the British Government once more organised a regency, and took in hand the education of the heir. The regency was entrusted to the young chief's mother, a lady of remarkable character and capacity, who was assisted by a council consisting of the *diwan* (or prime minister) and three ordinary members. This council met at least once a week, and submitted a record of its proceedings to the Maharani regent and to the British Resident.

The minor chief was, like his father, provided with a tutor, whose general functions were those of the "tutors" in English Universities, but who was a British official charged with the moral, as well as the intellectual, education of the pupil. The English attach special importance to the formation of character, and

that is the primary function which is expected of the tutor. But he has also to teach his prince what an Indian gentleman and a future ruler ought to know—the rudiments of science, history, and literature, facility in games and sport, and the elements of law and administration. (The religious instruction of the boy was left to his family and his priests.) Finally, the young chief was brought into the world of action, and was taught to handle the various problems of State administration.

But this kind of home education, passed among surroundings and privileges, is not the English ideal. They want to convert the young princes into something better than capricious and spoilt pupils. The chiefs of India must not think themselves, as Lord Curzon said, in a remarkable speech delivered at the Rajput Chiefs' College in 1900, "a privileged body to whom God has given a *sanad* of perpetual idleness. Their States are not their private property; the revenues are not meant to be swallowed up by their privy purse. Providence has destined them to be the working bees, and not the drones of the hive. They exist for the good of their peoples, and not their peoples for them, and they ought to be models, examples, and guides."

In order to attain this ideal, it has been thought necessary to transplant the young princes, and to remove them from their ancestral palaces into special Chiefs' Colleges. Nor is that an idea of yesterday. The policy was started nearly forty years ago, with the creation (in 1870) of a college at Rajkot for the sons of the Kathiawar chiefs. That was followed by the initiation of the Mayo College at Ajmer, for the princes of Rajputana (in 1872); and later on a number of similar institutions were started in different parts of India. At

present the most important of these are the colleges at Ajmer and Rajkot, above mentioned, the Daly College at Indore, for the chiefs of Central India, and the Aitcheson College at Lahore.

These colleges are not, of course, open to everybody. Even a boy of high birth would not be admitted, unless he, or his father, were a *darbari*, i.e. entitled to assist at the *darbars*, or assemblies of notables of States, or British districts, which are convoked to meet a Viceroy, a Governor or a Lieutenant-Governor, or on other occasions. Some of these *darbari* nobles are poor, and to meet their case, and prevent the decadence of the native aristocracy, a considerable number of scholarships have been created, which are assigned according to the merits of the fathers of candidates. And more than one Native State has attached to Chiefs' or *Rajkumar* Colleges, as they are called, hostels, in which students coming from that State are lodged. The education given at these institutions aims at turning out men rather than scholars; and religious training, games, and, above all, the development of character play the principal part there. The teaching includes English, the vernacular of the region, mathematics, history and geography, a little practical law, and some grounding in agriculture and financial principles, with special reference to the land revenue. There are also special courses for the benefit of future ruling chiefs (about 5 per cent of the whole), for those who intend to go on to a University degree, and for boys who have entered the College too late to get the full benefit of the ordinary course. The average age of entry is from ten to twelve, and boys leave the College between eighteen and twenty, so that the normal course of study lasts eight years. The internal discipline is that of a boarding-school, but

there are distinct groups, according to religion. Musalmans have a common mess, but the Hindus, whom caste differences would, in any case, often debar from a general table, usually feed apart. Each pupil has a separate suite, consisting of one or two simply furnished rooms in one of the boarding-houses, while some of the richer chiefs' sons may even have a whole house.

These institutions have, however, been far from achieving all that was expected of them. Whether it be that the minds of the pupils were not sufficiently developed, or their work not sufficiently assiduous, or whether, in spite of the undisputed merits of some of the best-known principals,<sup>1</sup> the teaching staff was inferior, the results obtained satisfied neither the parents of the pupils nor the Government of India. It was alleged that the pupils received no solid instruction, and acquired no taste for reading beyond illustrated papers; and that they were only enthusiastic over polo, football, cricket, lawn-tennis, tent-pegging, and other games. Also that when they returned home they speedily forgot almost everything they had been taught.

Accordingly, in 1902, and again in 1904, Lord Curzon thought it desirable to assemble conferences of educational specialists, and of native chiefs, for the purpose of arriving at new and improved methods. These conferences created a great impression in India. The chiefs, and especially the more conservative among them, were prejudiced against the colleges. They disliked the cost; they distrusted the quality of the education given there; and, above all, they feared that Western civilisation might disturb the religious tradi-

<sup>1</sup> For instance, Chester Macnaghten, who presided over Rajkot for twenty-six years, and Colonel Loch, who was for twenty-four years head of the Mayo College.

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tions in which they desired to bring up their children. Nevertheless, some of the most considerable Indian chiefs, the ultra-conservative Maharana of Udaipur, for instance, and the rulers of Jaipur, Bikaner, Gwalior, Bahawalpur, Cutch, Orcha, Gondal, etc., came willingly to Lord Curzon's conferences, and the debates that followed were free and lively, though carried on with perfect courtesy and good feeling.

Criticisms were passed on the games, which were said to be badly taught and somewhat neglected, and on the rôle of the private tutors, who, being paid by the pupil, and not responsible to the college, were said to do the boys' work for them. It was finally resolved to give the Mayo College a large managing committee, which should include chiefs outside Rajputana, and the religious instruction was placed on a better footing. The programme of studies was recast, so as to render it more practical and better suited to the needs and destinies of the sons of chiefs; and it was decided to obtain better qualified and better paid teachers.

But perhaps the most remarkable feature of this educational campaign consisted in the remarks made on various occasions by Lord Curzon. Conscious of the secret apprehensions of the chiefs, he repudiated any intention on the part of the Government to anglicise their sons. "Learn English," he said to these, "for it opens to you so many doors of Western civilisation, but above all learn the language of your own States. Do not remain strangers to your own peoples, do not break with the ideas, the customs, and the genius of Asia. Ask from the West all that it can give you, but do not forsake the East, which is your cradle. Become English gentlemen as regards knowledge and sports, but remain Indian nobles by your attachment to tradition. Let

your evolution be gradual; be a link between the past and the future."

The recently effected reforms cannot yet be judged, but the fact remains that hitherto the Chiefs' Colleges have not fulfilled the hopes to which they had given rise, and that most of the princes who have passed through them have not been specially successful rulers. Many of the more conservative chiefs prefer to keep their children at home, while some of the more enlightened, such as the Thakur of Gondal, prefer to send them to Eton and Balliol. Nevertheless, it would not be fair to condemn this experiment. The colleges will in time improve, and the pupils will gradually acquire the taste and habit of work. We must not forget that centuries of Asiatic life still weigh on their minds and bodies, and incline them to indolence and effeminacy. Time, however, will fight on the side of the British policy.

And even now it would be inaccurate to hold that the efforts made by the Government of India have remained sterile. Thanks to the reforms accomplished, and the examples given during minorities, and also to the slow educational work which is gradually developing the minds of the princes, the last twenty years have, as I shall presently show, been accompanied by marked progress in the government of the Native States. But if we wish to form an idea of what the bulk of the Native States still are, we must think of the Europe of the Middle Ages. We shall find the same practices, the same sufferings, the same prejudices, and the same barbarity.

There are, no doubt, some exceptions. India contains virtuous chiefs who love right and do justice. Several of these are to be found in Rajputana, among

the old families, proud of their immemorial descent, who boast of having disdained matrimonial alliances with the Mughal Emperors. But even in Rajputana, even in the States of the best of these great feudatories, there are such abuses that Lord Curzon had to call upon them to set a better example in future. There are also relatively enlightened princes who have arrived at some understanding of the duties of a present-day ruler, who have been trained in a good school, and who are acquitting themselves satisfactorily. I will speak of these later on, but in the mass the princes of India must not be judged by their virtuous or enlightened members, and the observations which follow may be taken as applicable to the bulk of the chiefs between 1830 and 1890.

“The progress of education, and the awakening of the ideas of individual rights, have necessitated modifications in the principles of government.” These are words taken from a remarkable memorandum by a chief who is still young, who was educated in one of the colleges just described, and who had realised the present-day claims of the peoples. He continues thus: “In the time of my ancestors the principal object of the Government of this State was to maintain the *prestige* of the chief, and its whole resources were applied to the end.” These lines show that some of the chiefs are conscious of the necessity for a change in their methods of government. Princes desirous of imitating the English, or of gaining their esteem, have reformed their administration, have made a careful choice of ministers, have established State Councils, and have given up a part of their time to public affairs; but these are still few in number.

We may divide the chiefs of India into three classes :



(1) The very few who govern according to European ideas of order and justice, and who seem to take a personal interest in the welfare of their people.

(2) Those who have introduced the elements of a reformed organisation have enacted laws, have appointed judges, and have then (like the young prince whom I have quoted above) appointed a Wazir to govern for them and relieve them of responsibility, at any rate until certain pending questions have been settled.

(3) Those who still imagine that they are the State; that its resources are their private property, and its inhabitants their slaves; that their affairs should take precedence of all others; and that their chief business is pleasure. This last class is still the largest, and to appreciate the influence which the English have already been able to exercise by their counsels, their example, and their methods of educating the princes, we must try and obtain an idea of what nearly all the States of India were within the last fifty years, and of what most of them still are.

The chief of such a State is a despot. He lives in his palace, surrounded by his wives and concubines, the members of his family, courtiers, mountebanks, jugglers, and astrologers. Sometimes he has no minister, but that does not lead him to work for himself, or prevent him from occasionally leaving his State, and allowing its affairs to look after themselves. What does it matter, so long as the chief has a good time? In his little Court intrigue is rampant. Parties form round his favourites, his wives, and his concubines, and denunciation and calumny are their usual weapons in the struggle for favour. The chief does not know whom to trust, and has to live in an atmosphere of continual suspicion. Sometimes the pressure of

business, and the insistence of the political officer, induce him to choose a prime minister, but it often happens that the minister and the chief are at daggers drawn; and one of the most important of the princes was, to my knowledge, greatly surprised by the fact that the British Resident did not take sides with the minister against him.

In spite of so many intrigues, life is monotonous, and it is not, as might be imagined, wholly filled by women. The chief may have several wives and several concubines, who all live together, or, at any rate, in the same wing of the palace. The wives are generally (and this is especially the case with the first one) of good, and sometimes of high, birth. The concubines are of low caste, and lack education and morals. Their presence, their talk, and possibly their actions exercise an evil influence over the children of the legitimate wives.

All, or nearly all, of them are absolutely idle creatures. At Indore, for instance, until lately, matters relating to the household were in the hands, not of the ladies of the palace, but of special functionaries. There was a Master of the Wardrobe, whose business it was to buy and make up garments for the whole family of the Maharaja, and I need hardly say that this minister was accused alike of incompetence and extravagance. The princesses refused to wear the hideous patterns that he supplied to them, and a crowd of parasites claimed to be clothed at the expense of the State. There was a minister of *cuisine*, charged with the purchase and preparation of food, and a minister whose chief business it was to look after the jewels. Now these officials have been abolished, the *cuisine* has been entrusted to a cook and a steward, and the jewels are kept in the treasury.

The jewels of several Native States are a veritable

treasure, and the chiefs, on State occasions, are decked with wonderful pearls. The Nizam, and the Maharajas of Mysore and Jaipur, possess marvellous stocks of precious stones, and even in the relatively modest Court of Bahawalpur I have seen boxes filled with rubies, diamonds, and sapphires. The sapphires, each as large as a man's finger, were engraved with inscriptions relating to the history of the ruling house.

The chiefs' palaces are usually quite new buildings, for India is a country of rapid ruin; each dynasty desires to possess its own capital or favourite residence, each ruler to have his own palace. The new palace is yearly replastered to a dazzling white; the old ones are allowed to fall into decay. But while the chiefs of old built in noble and durable material, such as marble and granite, their successors have taken to bricks and vulgar stucco. The contrast can be seen at Delhi, where the monuments of the early Mughals quite eclipse those which their descendants owed to the usually mediocre skill of European architects.

The princes of to-day have been awakened by the English to a life of sport, but the life of their predecessors was one of arms. The *pax Britannica* has killed the military vocation. The English boast that the result of their education has been to recall to physical activity chiefs who would otherwise have spent their lives in the zenana; but the chiefs do not go beyond polo (an Indian game), hunting, hawking, the chasing of hares or deer with young leopards, and some horse exercises, such as tilting at the ring. They are naturally indolent, and live idly both as regards body and mind. When they wake from their torpor, it is to think about wasting money and obtaining the means to do so.

The State money, which they treat as their own, flows out on every side, and, in the first instance, to those around them, to their relations, their courtiers, and their flatterers. They distribute the State property as our absolute kings used to do. One man will receive an entire appanage, another a manor or *jagir*. In 1831, when the British took over the administration of Mysore, they recorded the existence of *inams* (villages made over to private persons), which, at a time when land had little value, were estimated to have cost the State a capital value of 5 lakhs of rupees, and a current revenue of  $1\frac{1}{2}$  lakhs, whereas the *inams*, bestowed by the British administration after 1831, amounted to a capital value of Rs.18,500 only. The greediest robbers are the brothers and uncles of the reigning chief, who constitute a real public danger. In one State it was necessary to forbid them to come near the treasury, or to exercise any public functions. Next to the princes of the blood come the priests—Brahmans in Hindu, and *pirs* in Muhammadan, States, and the lower the caste of the chief, the more ambitious and greedy are the representatives of the high castes. I could mention various States in which the Government of India has been obliged to put a stop to gifts practically forced by these men from the chiefs. With all this, one can conceive the state of affairs with regard to justice, administration, public works, and general State equipment. I extract the following from a report on Mysore, which appeared in 1872-3, but related to the period preceding 1831:—"The judges could not pass sentence; they had only to determine whether the accused was innocent or guilty. In the latter case the Maharaja inflicted the penalty, but his habitual indolence did not give him leisure to do this, and the

prisons were full of inmates who, if guilty, had only committed slight offences." In other States there are no regular tribunals at all, while, in some, their jurisdiction has not been determined, and there are infinite appeals from one to another. Elsewhere, again, the magistrates have to make money for themselves, or the pleaders league with the magistrates for the ruin of their clients.

The taxes offer, as may be imagined, an infinite field of abuse. They are of all descriptions, some of them of a very weird character. In that old State of Mysore, which was a prey to the most extravagant conceptions of despotic imagination, there was a tax upon incontinence, and another upon marriage. There was a tax upon the birth of a child, and another on the occasion of the religious ceremony at which his head was shaved. There was a tax on the heirs of a man who, at some forgotten epoch, had failed to find the lost horse of a noble, and so on. Nowadays extravagances of this sort have been replaced by more rational imposts, but in many States this has not benefited justice or the taxpayer, for extortion stalks abroad, and you may see a clerk on Rs.80 a month keeping three horses. Everybody thinks of himself and nobody of the public. Famine, that scourge which the English have long been, and perhaps still are, powerless to prevent, makes far greater ravages in the States than in British territory. The battle with famine requires money, a definite policy, and watchful and honest officials, and the chiefs, as a rule, have none of these. Accordingly, in times of famine you see the people flying, even from the best governed Native States, to the neighbouring British districts, where they have at least the assurance of being able to gain a pittance by labour.

The finances, I need hardly say, are in wretched condition. Pay is often delayed, arrears accumulate, the small functionaries get starved, the larger ones extort the more from the people. In 1831 the Maharaja of Mysore had unpaid State expenses amounting to 88 lakhs, besides 75 lakhs on account of his personal outlay. In 1904 half the Native States were still in embarrassed financial circumstances.

The coinage, which in these States is a main form of wealth, is further exposed to the depreciation which has overtaken the silver from which it is minted. The Government of India have, by special measures, stayed the rupee at a sterling value of about 1s. 4d., instead of the 2s. which it was worth a generation ago; but those States which have not accepted the British coinage, and have issues of their own, find their rupees worth considerably less, and exchanging at a large discount with the British coins.

In spite of their taxes and extortions, the chiefs are as poor as their peoples. Some chiefs, it is true, save and hoard money. The father of the present Maharaja of Gwalior left such large reserves that the State was able on more than one occasion to lend money to the Government of India, and the late Maharaja of Indore also accumulated hoards. These, however, are exceptions.

The general administration is in a lamentable condition. The State of Indore, which I have just mentioned, spent, till quite lately, 9½ lakhs a year on an absolutely useless army, and only Rs. 42,000 on public works, although, on the advice of the British Resident, the budget contained a credit of 5 lakhs for this purpose. This, however, was appropriated to other objects. The fact is that, in the class of States I

am now describing, the ruler cares very little for the interests of the State and of its people. He concerns himself as little with the future as with the past, and the present interests to which alone he looks are his own. He is the State, and his decrees are the State law.

Remarks of this character have been made, on various occasions, by natives themselves. In a memorandum, written in 1885 on the States of Maratha origin, I find it stated that the chief considers the State as his own, the people as his slaves, and the budget as his privy purse; that torture is a regular form of judicial procedure; that corruption softens the rigour of the judges; that any crime may be atoned for with money; that forgeries and false witnesses abound; and that the taxes are three or four times heavier per head than in British India.

Mr. Lewis Rice, who has written on Southern India, relates that the people there experienced such misery in past times that their languages obtained a special word to express the temporary desertion of their homes by the inhabitants of a district at the approach of a hostile pillaging force. British domination has suppressed horrors of this sort; the *pax Britannica* has given security to all India, and has established this so firmly that the people are no longer grateful for the boon. This same power is now proceeding to secure, even in native India, a more regular government, a more farseeing administration, and a purer justice. It has already commenced its work of reform in a certain number of States, and I have now to consider how far it has succeeded.

It is very difficult to pronounce an opinion on the States as a whole, or even in regard to any one State,

for the English publish, and even possess, only a small number of documents of a rather general nature. Their political officers write every year a report on the States to which they are accredited, part of which is intended to be printed, and which is naturally not a model of frankness.<sup>1</sup> Praise is distributed with a rather too liberal hand; blame is wrapped up in velvety formulas, which prevent its being noised abroad. The calm is only disturbed, but then with a thunderclap, when faults have been heaped upon faults, crimes upon crimes. India then learns with astonishment that some prince, whose administration had for years passed as satisfactory, or even praiseworthy, has spontaneously abdicated, or has had his powers withdrawn and placed in the hands of a son, or it may be of the British Government itself, which finds itself obliged to re-establish order and justice. In spite, however, of this lack of adequate information, I shall endeavour to appraise, as justly as I can, the progress which has been made in recent years, to indicate in what directions it is sought, and what proportion of the chiefs associate themselves with the new policy.

The Indian princes—by whom I mean not the 700 chiefs of all grades, but the 100 or so with whom the Government of India specially concerns itself—belong to two schools: those who insist on burying themselves in the past, and those who admit the utility of coming to the surface in order to inform themselves of the present and forecast the future. The first class includes stupid and narrow-minded chiefs who have not yet realised that a fresh world has arisen around them, and

<sup>1</sup> In regard to matters bearing on the administration of Native States, the British Government is very chary of giving information; even simple statistics are treated as confidential; and yet I believe that I was treated with exceptional benevolence by the authorities of the Foreign Department.



that if they do not set about satisfying the new elements these will make a larger place for themselves. Chiefs of this sort live from hand to mouth, carrying on their traditional existence without realising that it is daily getting more out of touch with their surroundings, or even that it can ever be ended or modified. Others, of a higher mental calibre, feel the approach of a civilisation which threatens their own, but hope, by attaching themselves to the past, to retard the march of time and the disquieting elements that it brings. Their religion, their customs, and their privileges are to them venerable, and they struggle secretly, but energetically, to maintain them, seeking to obtain, by the dignity of their attitude and the nobility of their conduct, an authority which will compensate for their material weakness. Facts, however, are too strong for them, and they themselves, perhaps unconsciously and against their will, are changing under the pressure not of men but of events. Material progress is a great leveller; railway journeys and visits, the education of their sons in Chiefs' Colleges, honours solicited or received, are gradually doing what the English have shrunk from attempting directly. They are opening the door to fresh ideas, are bringing classes together, are rendering certain anomalies impossible and certain abuses intolerable, are undermining superannuated institutions, and are preparing the arrival of a new era.

This first, and conservative, class of princes is referred to in India, in conversation, in the press, and even in books, as the Old India party. The other class is naturally that of Young India, and as there are at least two distinct sections of the Old India party, so there are also two in that of Young India. That there is a Young India party implies that eyes that have long

been closed have opened, that they recognise a certain superiority in Europe, be it only in the matter of mechanism or administration, and that they admit that certain things may be borrowed from the West. But, after this common platform, the party divides into two. The left wing is enthusiastic over reforms which would soon leave nothing of the India of the past. Its members forget their own vernaculars to learn European tongues, they abandon their national dress, they forsake their religion and its consecrated practices, and they cross the sea every two or three years in spite of caste rules. Those of the right wing, on the other hand, advance more cautiously. They consider the amount of change that is possible, given the present state of India and the intelligence and attitude of its peoples. They reverence and defend religion and caste, and admit of no change which would be in conflict with its institutions. They only ask from Europe its material inventions, its educational methods, and, it may be, its philanthropic morality; but at bottom they remain Indians, whether Hindus, Musalmans, or Sikhs.

There is little doubt that the reformers will in the end carry the day; Old India will have to give place to Young India, but reform may come more or less rapidly, and who will impose the methods; the partisans of a gradual evolution, or those whose temperament would push them to revolutionary extravagances? Nor does the character of the advance depend on the chiefs only; the English will also have their say. They are certainly enamoured of progress, but they are eminently conservative and addicted to compromise, and, in that matter, general British opinion will be with the Government. The Anglo-Indian press is already sarcastic at the expense of chiefs who are too eager for change,

and over their premature and indiscreet borrowings of English habits.

Again, the moral authority of the chiefs does not depend on the extent of their States, or on wealth or other material success. What commands the respect of public opinion, British and native, is character, love of their peoples, sense of duty, and, finally, a desire for progress tempered by devotion to the secular institutions of their country. Among the Old India princes, men like the chief of the noble house of Udaipur, or of the little State of Nabha, and, among the Young India party, quite young chiefs like Bikaner and Sarmur, have more, or at least as much, weight as more powerful rulers.

Accordingly, as long as the English rule in India, and are in a position to influence the conduct of its peoples and the march of events, the pace towards progress will be that of the moderate Young India party, advancing slowly and steadily, and without violent movements to the front or to the rear.

At the present day one might cite several progressive princes who, in different ways, have attached themselves to what is conventionally called Western civilisation. I do not speak of men like the Raja of Kapurthala, well known in Paris and London society, who is a facile writer of English, speaks French fluently, and is educating in France the lady who is to marry his eldest son. Chiefs of this sort are rare exceptions, and exercise no influence over the thoughts and actions of their equals and inferiors in India. But princes like Baroda, spite of certain affectations in his attitude and his public sentiments, like Gwalior, spite of the fact that he sometimes gives himself up to matters which are more worthy of a district collector than of a ruling

prince, like Mysore, who, spite of certain shabby aspects of his administration, is a man of prudent mind and firm will, are, taking them altogether, good specimens of what might be termed Young India. Possibly they would not accept classification in this party, but, willingly or unwillingly, the character of their policy, and their degree of knowledge, combined with a conservative spirit, place them in its ranks; and they are, knowingly or not, the leading workers in a wise movement of transformation which is carrying India forward. In advance of them, even, are chiefs like Bhaunagar and Gondal, rulers of quite small States in Kathiawar (in the Bombay Presidency), who, having been influenced sooner than the rest by intercourse with Europeans, have also taken the lead in making large concessions to Western ideas, have sent their sons to English Universities, have travelled over the world in the company of their wives, and deserve to be cited as models, not merely for Kathiawar, but for India as a whole.

If, without entering into details, we seek for the essential differences between the administration of the chiefs who are entirely devoted to the past, and of those who claim to be friends of progress, we may reduce these to two or three principles. The progressive prince understands that no State can be well managed if the chief does not take part in the government, and even in the details of the administration; that no administration can be satisfactory unless it is based on the adequately remunerated assistance of officers chosen for their integrity and their talents; and, finally, that administration is an art which has to be studied, and that the shortest way of attaining the requisite knowledge is to learn from those who have

already acquired it, that is, from officers drawn from British India. These propositions, which seem to us so natural, are nevertheless innovations, and very considerable innovations, in the India of the princes.

India long knew only a patriarchal form of government, which dispensed with laws and administrative methods, and that is one of the great difficulties which the English have met with in endeavouring to advance to a system of regular administration. Patriarchal government has its advantages; it has simple formulas and rapid solutions, but its success necessarily depends on a good *personnel*. If this is lacking it becomes thoroughly bad, and the good men required to work it are rarely found in the Native States. Accordingly, during the period of the British administration of Mysore, Bowering and his successors were, after considerable hesitation, obliged to introduce a regulation system, founded on laws and rules whose normal working is ensured by the efforts of fairly well trained and intelligent officers. It is a more tedious method than the other, but much more sure, and from Mysore it has gradually spread to other States; but in order to ensure such penetration it was necessary to persuade the chiefs of its excellence.

I have already cited a memorandum by the young Nawab of Bahawalpur. Speaking of his father and other predecessors, he noted that they were not accustomed to conduct the State Government; they chose a *wazir*, and then considered themselves free from all care except that of maintaining the dignity of their position. The young prince recalled these precedents in order to show that he intended to depart from them. He declared his firm intention to devote his time and energy to State affairs, and to do so in a manner which

should ensure the happiness of the mass of the people which God had placed under his rule. "I am perfectly cognisant," he added, "of the great responsibility of my position, and it is my most lively wish to obtain the faculty to discharge the responsibility with every success." He then proceeds to formulate a plan of organisation—ministers, a council, regular sittings for common work, etc. "Evidently," he says, "that implies much work and responsibility for me, but I am willing to accept it in the interests of good administration. No doubt, too, this plan will appear a serious innovation, but I expect important results from it." When a young prince obtains such a conception of his position, and takes resolutions of this character (easier, of course, to take than to keep), we may be certain that this has not arisen spontaneously. In the present instance, the inspiration was that of a veteran Anglo-Indian officer, Colonel Grey, a cadet of the illustrious English family one of whose members is to-day Foreign Secretary in London.

Another chief, a member of that great Rajputana aristocracy which is so admired and respected in India, the Maharaja of Jaipur, has carried out, though more modestly, an evolution of the same character. For twenty-four years the government of his State had been entirely in the hands of an all-powerful prime minister, a Bengali Babu, who had attained this high position less by merit than by circumstances which had aided his supple patience. On the death of this Babu, the political officer tried to persuade the Maharaja to take the government of his State into his own hands. The chief was hardly prepared for this; like most noble Rajputs, he devoted his life to sport and to luxurious indolence. Public affairs, councils,

attention to political problems and administration were not matters he cared for. But the Resident was courteously insistent; the Maharaja at length yielded, then began to take an interest in his task, and finally carried it out so well that Jaipur is now one of the best governed States in India.

A chief who actually governs does not, of course, govern quite alone, but ordinarily has some kind of a council. The Maharaja of Mysore, for instance, has one composed of three members: a *diwan*, a sort of prime minister, and two others. The *diwan* is authorised to act in cases of urgency even in regard to departments which are in charge of the other members, but must inform them of what he has done. He himself takes outside relations, finance (including mines, etc.), public works and railways, police, and military matters. The second member of the council is in charge of the land revenue, and of everything which relates to agriculture, including agricultural banks. The third councillor is in charge of a number of miscellaneous departments, such as education, forests, indirect taxes, sanitation, jails, stamps, statistics, registration, meteorology, and legislation.

I cite this organisation as an example, and not as a model, for it lends itself to criticism. If the *diwan* and his colleagues are in accord, the council becomes useless. If they are in disagreement, everything may come to a standstill, and the chief is forced to choose between the council and the *diwan*, and is generally bound to support the latter. Mysore has had a councillor who was far superior in merit to the *diwan*, but the *diwan* was jealous of him, criticised everything that he proposed, and was supported by the Maharaja, although the latter secretly sympathised with the other

member. Finally, the councillor was obliged, to the great loss of the State, to resign his position and to take employment in Travancore.

Below the prince and his council are the executive officers. Formerly, the highest officials in Native States were favourites who had nothing to recommend them but the favour of the prince, and were ignorant of the most elementary duties of their posts. Nowadays, princes like those of Baroda, Mysore, Gwalior, Travancore, and Cochin understand the importance of these functionaries, seek good officers, and pay them well. They have even introduced methods of local selection and education which ensure an efficient administration, at any rate in the lower ranks. Above all, they are conscious of the utility of placing at the head of their departments men of experience, and for some time past, in spite of the protestations of their courtiers, they have set themselves to seek these among the English, or among natives formed in the British school. The Gaekwar of Baroda has employed, as a revenue minister, a Bengali of great merit, Mr. R. C. Dutt, who obtained a place in the Indian Civil Service by competition in London with British candidates, and who had, before his retirement, risen to the high rank of commissioner of a division in British India. Similarly, the State of Cochin obtained the services of Mr. Rajagopalachari, who belonged to the Statutory Civil Service of Madras, and who, after a successful career in Cochin, is now *diwan* of Travancore. Public opinion in the States does not love the choice of natives from outside. It is still more against the nomination of British officers, and it should be remarked that such opposition has more than once come at least as much from the political officer as from the courtiers. British



officers, when selected for employment in Native States, have a double task : to administer in the best interests of the country, and to train up natives who shall be capable of succeeding them.

Just as it would be foolish, and probably impossible, for a private person to undertake with advantage an inquiry into the general condition of the Native States of India, so it would be above his power to go through all the different matters in which attempts have been made towards the introduction of political or administrative reforms. The princes of India, and their assistants in the task of government, are far more removed than we are from true experimental methods. They cannot, as Gambetta recommended, arrange questions in series, placing them in a rational, or rather reasonable, order in which they can be attacked, studied, and solved. Nor can they consistently follow a plan once drawn up. They try to grapple with all problems without order and without method, and consequently the results attained are either incomplete or so trifling as not to be worth record. It is indispensable, therefore, to limit my inquiry to certain departments in which their reforming energy has been exercised with somewhat greater tenacity — law, the administration of justice, education, financial systems, famine, police, etc.

As I have already said, hardly any State has a regular body of laws, and those few that possess such have modelled them on the Anglo-Indian codes which are in force in British India. In Mysore, for example, the civil and criminal law and procedure is almost entirely that of British India, and the great State of Hyderabad, with its 11 million inhabitants and a territory almost half the size of France, has framed

its laws so freely on the British Indian model that there is no special treatise upon them. The principal differences between the law of British India and that of Hyderabad are found in matters relating to marriage, adultery, succession, etc. (where the Koranic law prevails in the latter State); and divergencies of this kind are not so important as might be supposed, for, even in British India, the English have left almost everything relating to the private personal status of the natives to be determined by the religious law and caste customs of the individual.

It may be said generally that wherever a Native State has thought it desirable to borrow British Indian legislation, its choice has fallen, first on the penal code, then on the codes of civil and criminal procedure, and finally on certain portions of specific legislation, such as those relating to contracts and obligations. Laws thus borrowed have been enacted by the chiefs in the vernaculars of their various States, and the modifications made are relatively few. That some modifications have been required is not surprising. British Indian legislation has not infrequently been in advance of the social condition of the people, and *a fortiori* of that of native India. It must be remembered that, on many subjects, Indian ideas—one might say their fundamental principles—are entirely opposed to our own. For instance, the equality of human beings is for us Westerns almost a dogma—even those of us who combat it in politics admit it in other spheres; but the Hindus reject such a dogma with horror. In their eyes everything tells against equality—sex, social condition, origin, and so forth. Men and women, the Brahman and the sweeper, the Rajput and the Chamar, can never be equal before the law. Take another

example. We Europeans, in dealing with contracts and mortgage, make no difference between the two parties; the man who lends his money and the man who pledges his land seem to us entitled to equal consideration; but in India native opinion protests strongly against such equality. That land should be responsible for personal debts is to the Hindu a new and disquieting phenomenon. Land, which was ordinarily inherited from ancestors, could not formerly be made answerable for debts, whereas nowadays, thanks to Anglo-Indian legislation, it may be taken away from the hereditary proprietor. The legitimacy of the debts which landholders incur is not usually contested, but the amount and the method of realising them is. The usurer is an expert in swelling his accounts, and even were they exact, it is not held fitting that they should lead to the expropriation of hereditary agriculturists. In the eyes of the Indians British legislation on this subject has been guilty of two faults: it has raised cultivating ryots into full proprietors, endowed with the pernicious freedom to alienate their land; and its procedure permits the money-lender to realise his security too quickly, and without a proper examination of the equity of his claims. Accordingly, the Native States have been careful not to make an exact copy of legislation so contrary to the popular sentiment. On the other hand, the States of Mysore and Baroda have adopted social legislation in restraint of infant marriage which the rulers of British India have hitherto shrunk from.

The administration of justice in the more advanced Native States has also undergone change, though less profound than in the matter of law, for we must always bear in mind the old antithesis of Horace between laws

and morals, and nothing is more rare in an Asiatic country than an upright judge. It may be objected that the native judges of the High Courts of British India are among the best, and that in character, as well as in knowledge of law and appreciation of evidence, they need not fear comparison with their British colleagues. That is true, but then they are a few carefully picked men. In British India, again, the neighbourhood of their European colleagues, and the influence of public opinion, have for long kept them on guard against any stumbling. In the States, on the other hand, their isolation is at once a source of strength and of weakness, and the temptation to corruption may well become too strong for a weakly defended conscience. So while various States have established tribunals on the Anglo-Indian model, they have not always been able to inoculate the minds of their native judges with that integrity which adorns, and is a matter of honour with, their *confrères* of the West. Nevertheless, even here there has been progress, and it would seem that the notion of personal honour, as we understand it, is gradually penetrating the conscience of the native judge. Science, too, is accomplishing its salutary task, and he is beginning to understand abstract right and justice.

Again, in certain of these States efforts have been made towards a more or less complete realisation of the principle of separation of executive and judicial functions. This principle, which in Europe we consider an elementary safeguard—although it might be shown to conceal many injustices—has not yet been fully applied even in British India. For the Native States it is quite a new idea; some of them would consider it an absurd

admitted it. Nowadays, however, some of the chiefs, under the influence of counsellors imbued with European ideas, have begun to give effect to it, and occasionally in quite large measure. Thus, in Baroda the executive district officers have been largely relieved of all judicial functions.

As in their executive administration, some of the States have endeavoured to increase the efficiency and integrity of their judges by offering high judicial appointments to Englishmen, selected to serve as models and examples to their native colleagues. In Mysore, for instance, the chief judge of the chief court of the State has more than once been a judge taken from the British Indian Service.

The sphere in which the best results have been obtained seems, however, to be education. The advantage of knowledge is so evident, and native opinion is so strongly in favour of education in British India, that a similar feeling has inevitably arisen among the States—not merely among those which are advanced in other respects, but in the territories of conservative chiefs. Statistics do not, of course, prove everything, but they cannot be entirely deceptive, and in this matter they show a considerable and general effort. For instance, in 1872-3 the State of Bikaner possessed a single school with 275 pupils, which was maintained by public subscriptions. In 1899 it had a Government college, a chiefs' school, 13 district schools, and 2 girls' schools, containing in all some 2000 pupils. In 1870 the State of Jaipur had 100 schools of different kinds, with 7000 pupils; in 1899 there were 110 schools maintained wholly or partially from public funds (public schools as they are called in India), 623 private schools, and a total of 16,000 pupils. In 1871 Gwalior

had 90 schools, of which only 1 gave instruction in English, and 3000 pupils; in 1899 there were 342 schools, of which 5 were colleges leading to degrees in arts, and 3 girls' schools, with 17,000 scholars. Mysore, specially advanced in education as in other respects, possessed, in 1899, 2186 public and 1700 private schools, giving instruction, in all, to nearly 98,000 boys and 15,500 girls, while 26·8 per cent of the boys of school-going age and 4·3 per cent of the girls were actually at school. Among the boys' institutions were 3 colleges for English, and 4 for Oriental studies, 13 high schools, 93 Anglo-vernacular schools, 95 vernacular middle schools, 1714 primary schools, 40 Sanskrit schools, 6 industrial schools, 3 normal schools, and 49 special schools of other descriptions. For girls, there were 1 college, 1 high school, 6 Anglo-vernacular middle schools, 22 vernacular middle schools, 183 primary schools, 1 normal, and 1 industrial school. The wife of the late Maharaja of Mysore (now the Maharani Dowager) has specially interested herself in female education. She started a special school for high-caste girls, to provide an education which should not wound the religion or the prejudices of the natives. Other schools of a similar description were soon opened, and nowadays the Brahmans themselves are not opposed to the instruction of their daughters. In Madras many girls attend college courses, and some of those whose social rank would ordinarily condemn them to *purdah* life attend these. There is thus an evolution in manners as well as progress in education. Travancore, another very advanced State in the south, possessed, in 1892, 2418 schools, with 104,600 pupils, of whom, however, less than 100 were girls. In 1902-3 it had 3821

schools, with 196,600 pupils, and 76·6 per cent of the boys of school-going age and 23·3 per cent of the girls were under instruction. Classifying the school population of this State by religion, we find that 64 per cent were Hindus, 31 per cent Christians, and 4·8 per cent Musalmans. In Cochin, a smaller neighbour of Travancore which rivals her in intellectual development, there was in 1902 some falling off in the percentage of children of school-going age under instruction; but the fact remains that the Christians in this State sent 66 per cent of their children to school, and the Jews, who are there in some numbers, 127 per cent—that is to say, 27 per cent of the Jewish children go to or remain at school before and after the normal ages. Baroda is another State in which education has been much developed, and the Census of 1901 showed that, in Baroda and Travancore, the proportion of persons able to read and write was higher both as regards boys and girls than in any British province outside Burma, where elementary primary education has been specially fostered by the monastic schools.

In matters of finance there have been two reforms which require special notice: the introduction of a proper method of public accounts, and the institution of a separate civil list for the personal expenditure of the chief. Formerly in all States, as still in the majority of them, the State treasury was but the privy purse of the prince, while receipts and expenditure were very imperfectly entered. I do not pretend that rules such as those of the French Decree of 1862 upon public accounts have been even now thoroughly applied in any Native State, or that the cooking of accounts is unknown, but at least a system of regular accounting has been introduced in some of them, and no sum can

enter or leave the public treasury without a written record.

In regard to taxation, Anglo-Indian practice is being closely followed in the advanced States, and efforts are occasionally made to improve upon it. In Gwalior and Mysore, as in some other States, the advantages of the survey and revenue systems have been understood and applied. Taxation has been rendered more moderate, and in years of distress there are remissions of arrears and loans to the cultivators. Baroda has started an income tax, but with ingenious distinctions which seem to make it a more equitable and supple method of taxation than its Anglo-Indian model.

Above all, the famine administration has been improved. In times of famine the State Governments of which I am speaking endeavour to attract into their territories food grains for the supply of their people, and to provide these with the means of obtaining them by starting relief works. Famine in India arises from deficiency of water supply, caused by the failure of the monsoons, and consequently strenuous efforts are made to store up and utilise water which would otherwise go to waste, in reservoirs, tanks, and canals. That is a class of public works in which the English are past masters, and the States in their turn are beginning to engage in it, and with profit to themselves. For instance, the State of Jaipur, guided by an eminent English engineer, Sir Swinton Jacob, had, up to the year 1904, spent 63 lakhs on irrigation projects, and had thereby obtained an increased land revenue of 52 lakhs.

I must also mention the improvement of the currency, ordinarily realised by the introduction of the



British rupee into Native States, and a public works policy particularly in regard to railways, which is quite a new departure. The States of Kathiawar have accomplished very considerable work in this direction by well-advised co-operation. Hyderabad, Bhopal, Mysore, Baroda, Jaipur, and Bikaner are other States which have financed railway systems that now provide them with a profitable income. In 1880 they had collectively 474 miles of railway; they now possess about 3500. A single State of Kathiawar, Bhaunagar, has invested 68 lakhs in its railways, which bring it in about 5·7 per cent.

In taking into account the condition of the Native States of India, one must not, however, allow oneself to rely wholly on appearances. So-called reforms are often words which signify nothing; an ambitious programme may have been set forth, but it has not been carried out. The following are some examples of this tendency. The problem of agricultural banks has for some thirteen years been much before the minds of Anglo-Indian administrators. The idea was started by Sir Frederick Nicholson in Madras, was taken up by Lord Curzon, and, in view of the general indebtedness of the agricultural population, was warmly accepted by a large section of native opinion. Mysore, eager to act up to its reputation as a progressive State, started banks of this sort quickly. A report of 1900 indicated 64 of such banks at work in June 1899, which had up to then lent about  $14\frac{1}{2}$  lakhs of rupees, of which, however, only about 1 lakh had been repaid. In 1898 the fresh loans had amounted to  $2\frac{1}{2}$  lakhs of rupees, and in 1899 to little more than a lakh; they seem, in fact, to have been diminishing from year to year. In July 1899 one of these banks

was obliged to close, and the Government had some difficulty in recovering an advance that it had made to it. Since that year no new bank has been founded. These institutions are in a rotten condition; nevertheless, they still figure in official publications. In 1905, when I was in Mysore, I inquired from one of the highest officials there as to these institutions. He replied, "Agricultural Credit Banks?—they are nothing; or rather, they are a failure, a misnomer." There was, in fact, no proper management, and the loans seem to have been made recklessly and to persons for whom they were not really intended.

Again, one is occasionally surprised to read in the Indian newspapers of a Representative Assembly in Mysore and in Travancore, a phrase which suggests some sort of Parliamentary Government. The fact is that about 1881 the *diwan*, or prime minister, of Mysore conceived the idea of convoking representatives of the principal interests of the country, members of municipal and local councils and district councils, landed proprietors, cultivators, and traders. He wished to establish direct communication between the people and the Government, to communicate to the people the views and intentions of the Government, and to show them that their interests and those of the Government were identical. The delegates chosen by the diverse interests which they represented were to travel to the State capital, and be lodged there, while the sittings of the Assembly lasted, at State expense. The first Assembly met in September 1881. The *diwan* welcomed it in eloquent words, and called upon it to associate itself with his policy of progress; but the Assembly did not desire to work for progress, or to occupy itself with anything but the present, with

such matters as taxes, the security of property, etc., and it made many complaints with regard to the present condition of the people. This attitude displeased the *diwan*, who repented of his creation, and soon reduced it to an insignificant rôle. In 1900 this Assembly consisted of 266 members, 204 representing agriculture, 39 municipalities, 16 rural boards, and 7 diverse public associations. It sat for 5 days, and was consulted upon 412 different matters, but it has really much less influence than the district boards or councils of British India, which themselves have but little. The Mysore Council has on various occasions tried to make itself felt as a power in the State, but the Government has never admitted this, and has brusquely recalled it to the position conceived for it. In 1897, on the occasion of the Diamond Jubilee of Queen Victoria, it tried to send an address direct to the Queen, but even that was refused.

The Representative Assembly of Travancore recalls that of Mysore. It has not originated from the spontaneous desire of the people or even from the original wish of the Maharaja. It was acclimatised in Travancore by a *diwan* who had come from Mysore, it meets every year in September or October, and its sessions only last a few days. The *diwan* informs it, in a fine speech, of the administration of the year, invites it to discuss this, and then dissolves it without concerning himself with its discussions and advice.

Institutions of this sort, copied from Europe, have hitherto had no practical effect. It is otherwise, however, with those which connect with the past, which adapt ancient institutions to new conditions. For instance, in Kathiawar there is an annual assembly of the representatives of the four most important

categories of the numerous States of that country, which is presided over by the political agent to the Governor of Bombay. It discusses essentially practical questions—the budgets of institutions common to the various States, such as the Chiefs' College, and the normal schools for boys and girls, common public works, and mutual relations. I have not seen any complete account of the work of this assembly, but I have reason to believe that it is spontaneous and efficacious. Finally, the State of Baroda has announced the formation of an Executive Council, a sort of Cabinet of ministers, and a Legislative Council. These creations are due to a Hindu of great talent whom I have already had occasion to mention, Mr. R. C. Dutt, formerly a high official of the British Government, and now a minister of the Baroda Gaekwar. It is noteworthy that this distinguished person, who was for some time notable by his ardent criticisms of the despotic system in British India, has not been able to do better than to introduce into the State which he now helps to administer the institutions of the despots he criticised. Another powerful and able declaimer, Mr. Gokhale, when presiding in December 1905 over the National Congress at Benares, demanded a complete reform of the Legislative Councils, and in particular an equalising of the numbers of the official and non-official members, while at the same time his ally, Dutt, was instituting in Baroda a legislative body in which the elected members held only one-third of the seats.

Nevertheless, after making all necessary reservations, it is undeniable that there has been substantial progress in the administration of several of the more advanced Native States. It is noteworthy, too, that these States and their chiefs are showing themselves

accessible to sentiments of emulation, and to praise and blame. They are concerned with what the English think of them, and what their neighbours and rivals are doing. They exchange administration reports, which give an account of what has been done, and may suggest the desire to imitate or improve upon it. That is quite a novel sentiment for princes who have hitherto lived in a state of isolation and indifference; it marks a turning-point in their existence.

I have already noted that nothing is more difficult than to obtain an exact idea of how far realities in Native States correspond to the appearance of important institutions. In 1905 I asked an Englishman, who held a high position in one of the most advanced States, for his candid opinion on the value of that display of native administration which has taken place on a stage prepared by the English and their pupils. His opinion, which he gave with reluctance, was practically as follows: "Here, nobody is serious or takes his rôle seriously, with the exception of a few enthusiasts who provoke smiles. Everybody is playing a part. Administration, the army, the secretariat, are all comedy; nobody cares for results, or troubles himself about anything but appearance and the pay which it brings. The machine which we formerly set in motion is going more and more slowly as the British element is being replaced by natives." My interlocutor was a misanthrope who believes himself disillusioned about everything, but I think he is still deceived. The fact is that the natives do not furnish at all a bad element of administration and bureaucracy; they can be and are hard-working, patient, and shrewd. Well organised and directed, they can work to advantage. In British India the English entrust them with complicated,

and even delicate, duties which require vigilance and knowledge of detail, for instance in the Public Accounts, a service in which natives occupy very high places, and in the Department of Justice, in which they hold some of the most important posts and show themselves possessed of the qualities of good sense and integrity. Does not that show that the natives, or at any rate a fraction, an *élite*, possess an aptitude for administration and government, and that this aptitude develops as soon as it can be exercised under favourable conditions. What, then, are favourable conditions? The native princes unanimously reply, confidence and liberty, and they put forward arguments which may be summed up thus: "Princes like ourselves, who are faithful and loyal, should receive more respectful treatment, larger recognition of our dignity and prerogatives, a more liberal education, less preventive discipline which kills initiative, and more independence of action, at the risk of our committing errors which will themselves call for correction and bring knowledge." And there is truth in this plea. Their loyalty is indisputable. Whether it be the terrified attitude of adversaries resigned to their defeat, or the respectful bearing of conscious allies, or the clever demeanour of *protégés* who have been laden with benefits, it is beyond a doubt that they have henceforth bound up their fortunes indissolubly with British rule. On the occasion of the death of Queen Victoria in 1901, they gave a thousand innumerable proofs of their attachment. I have perused letters written by them during this period which were full of gratitude. "Throughout the reign of this great Queen, they said in substance, what have we not owed her? No more wars; no more insecurity; the possibility of employing our resources for the good of our subjects; the transmission of our

rights to heirs guaranteed by *sanads*; our States, which under certain circumstances might have invited annexation, maintained in their integrity; we ourselves laden with honours, with salutes, with the Grand Cross of the Star of India and of the Indian Empire, and so forth. How can we acknowledge these things but by respect and devotion?" If it be said that these are but functional formulæ, I can cite an anecdote which will carry weight from its exotic origin. At that time a man in the State of Hyderabad had killed his two brothers, and his sisters-in-law were fiercely prosecuting the murderer. His wife had in vain thrown herself at their feet and implored them to pardon him, a procedure which would have spared him the penalty of death. They remained pitiless, and the man was condemned to die. At this moment Queen Victoria fell ill, and soon her life was despaired of. The Nizam was profoundly affected, and at the hour when the guilty man was to die he sent him a pardon by a special messenger on condition that he would pray to God, with whom a man so near death was believed to carry weight, for the safety of the dying Queen. In 1885, again, when England was in difficulties in Egypt and in Afghanistan, this same Nizam of Hyderabad offered to the Government of India, in a letter which has remained celebrated, the sum of £600,000 and military assistance for the defence of the North-West Frontier. Not long ago, again, the State of Mysore passed a law enabling its criminal tribunals to take cognisance of seditious acts directed against the King of England, his subjects, or his army. The archives of the Foreign Department of the Government of India contain many other public manifestations of the same sentiment. Facts like these may not mean much individually, but collect-

ively they are of importance, and show the immense difference between what the chiefs are nowadays and what they were at the commencement of the Victorian era. At that time they were jealous and suspicious of one another, always immersed in intrigue, mistrustful of the British power, indifferent to their duties towards their subjects, and unconscious of their rôle in the Empire. As regards their attitude to the paramount power, they have within sixty years passed from dislike to indifference, and from indifference to loyalty and affection. (I cannot speak so emphatically as to their zeal and enthusiasm in the task of good government.) Their position and aptitude have changed as well as their sentiments. I am not speaking here of all the chiefs, nor even of the hundred most important of them, but of the twenty or thirty who are best instructed and most in evidence, and whose prominence binds them to good behaviour. The neighbourhood of the English, the presence of the political officer, training received in the Chiefs' Colleges, the encouragement of Viceroys, that desire to model themselves on the master which is one of the forms of courtiership, the ambition to continue to deserve the title of model chief—all this has brought about a revolution in their appearance, traits, sports, pleasures, thoughts, preoccupations, and acts, in fact, in their entire life. They interest themselves, or at any rate affect to do so, in the problems of government and administration; and whether this be due to love of their peoples, or, as more often happens, to the desire of obtaining praise from the Government of India, they consecrate to the work of government time and money which would formerly have been consumed in their own pleasures. They have ceased to be pure despots and have taken cognisance of their duties as



rulers. They are as yet but twenty or thirty fore-runners, but they are, or will be, the guides of the whole flock.

And being what they are, why, they urge, should they continue to be subject to the minute guardianship, benevolent, it is true, but destructive of individuality, which the Government of India has so long imposed upon them? The political officers who reside at their Courts are in truth (I reproduce here native opinion, which contains a material part, but only a part, of the truth) their masters. That may not be true in the case of the Nizam who has 11 million subjects, nor perhaps in the State of Mysore with its 5 million; the opposition of rulers of this calibre might be inconvenient, and they consequently escape from the annoying control of the political despot. But elsewhere the attitude of the political officer, while ordinarily deferential in form (though even that is sometimes lacking), is the attitude of a servant who directs his nominal master, haughty, polite, impertinent, and ironical. And what, say the observers I am quoting, are these political officers save spies, whose words will be believed by the English in the face of all outside denial? Once they have pronounced a judgment on any matter, how can the chief appeal against it save by the difficult and exceptional method of a letter to the Viceroy or a complaint to the Government? And the peoples of the States are not deceived; they know that their rulers are thus subject to masters, and their attitude takes colour from this. The respect paid to the chiefs decreases with their prestige, they are no longer kings. "Will the Government of India," ask the chiefs, "restore this respect and prestige? How does it treat us? In great durbars, for instance, the Viceroy addresses

himself first to the Governor or Lieutenant-Governor and not to us. What must our subjects think of this? And who has forgotten that atrocious circular of Lord Curzon which forbade us to quit India without his permission?<sup>1</sup> His motive was a good one, but his procedure was quite wrong. Like other men, we princes are moved by deference and politeness. We are no longer what our ancestors were. A more liberal education (though it is still far from being liberal enough) has opened our eyes to the necessities of the time, and we understand that the hour has struck for the reform of many abuses. Let the paramount power encourage us to take up this task, but let it leave us free to choose our means of action. Let there be less centralisation; loosen the reins; do not force us to ask advice and permission for everything; do not behave like a schoolmaster with a cane. Do not require us to treat neighbouring princes like strangers; recognise the necessity and advantage of our coming to understandings with one another. In fine, do not keep us in fetters. At the risk of our making mistakes, let us act or endeavour to act at our own discretion. Experience is a great teacher, we shall learn from our very errors. And are you yourselves infallible, whether in your own territories or in ours? Have the States always found themselves the better for your counsels, have our finances never suffered from your inter-

<sup>1</sup> Lord Curzon was certainly right in thinking that it was undesirable that the chiefs should visit Europe too often, to spend there, in personal pleasures, money wrung from their subjects. At a later date the Government of India cautioned the Nizam not to allow the sons or near relatives of his feudatories to go to England without giving it notice, but here the advice was not given in an open circular, and it was made clear that it was in the interests of those to whom it applied. The Government offered to facilitate their sojourn in England, to procure them introductions, admissions to Universities, guidance in the choice of tutors, etc.

vention? Consider, for instance, the case of chiefs who found themselves in deficit through having to visit the Coronation Durbar of 1903. Remember that a true expert is modest and that a good master is indulgent."

To pleadings of this sort the British Government has, unfortunately, but too good a reply. The chiefs are not only censured by the English, they are also blamed by their own subjects and by the native press, and it often happens that native opinion criticises the English for their extreme indulgence towards princes who have shown themselves incapable or indifferent to the good of their peoples. Those who think thus have often urged upon the British Government to interfere, and not to allow so-called enlightened chiefs complete liberty in crushing too submissive peoples. They beg the Government, in fact, not to relax its right of control. How can we reconcile prayers of this sort with the claims of the chiefs for "emancipation"? Moreover, the Government of India can show that it is often the chiefs themselves who call it to their assistance, and beg it to intervene in their affairs. Many rulers have asked for loans, others for the supply of good officials, others, again, for support by the moral authority of the paramount power.

To decide between these two lines of argument is beyond the power of a man like myself, a mere traveller and student who has not been able to penetrate sufficiently into the minds of the Indians, or into the political and administrative machinery of the country, to give a weighty opinion on such grave questions. All I can say is that both positions have elements of truth. The English have reason to mistrust the zeal of the chiefs for the public good, their judgment, energy, and capacity. The chiefs, on the other hand, have just

cause of complaint in regard to the attitude of the British Government, the authoritative method it has adopted for their guidance and instruction, and the scanty sympathy and deference which they receive from the public, and even from some of the accredited political agents; and it would certainly seem desirable that the Government of India should now try a further experiment, that it should select some of the most upright and most enlightened of the chiefs, and inaugurate with them a policy which would repose almost entirely on liberty and confidence. An experiment of this sort, conducted in good faith, would enlighten the Government in regard to the future and would impose greater patience on native opinion. Is the Government of India disposed to try such an experiment? I do not know, for in that country, where everything which can be made known without inconvenience is published, everything in regard to which secrecy is thought desirable is kept hidden. Nevertheless, it is permissible to interpret certain speeches and acts of the present Viceroy and the present Secretary of State (Lord Minto and Lord Morley) as indicating a new tendency in this direction.

## CHAPTER II

### THE TRIBES AND CHIEFS OF BURMA<sup>1</sup>

#### SECTION I

##### *General*

HAVING treated generally of the States of India proper, I propose to give a sketch of the States and tribes in Burma, for French Indo-China has several which are connected with or analogous to these, and we French may obtain profitable information from what the English have done.<sup>2</sup> These tribes and States form four principal groups in and around Upper Burma. Beginning from the south-west, going north, and then descending to the east and south-east, we get in succession the Chins, Kachins, Shans, and Karennis.

The Chins are met with in the west, in the tract which connects Burma with Assam, situated between 21° 45' and 24° N. and 93° 20' and 94° 5' E. The territory which they occupy, between the mountains of Arakan and the Chindwin river, forms a parallelogram about 250 miles long and 100 to 150 miles broad. It

<sup>1</sup> It should be noted that with the exception of the five Karen States, the Native States in Burma are technically a part of British India, and not outside it, like the States of India proper.

<sup>2</sup> Laos on the one side, and the Burman Shan States on the other, furnish the point of contact between the British and French possessions in the Indo-Chinese peninsula. There is here a common frontier extending for over 50 miles, and the relations between French and British in this part of the world have been excellent.

is broken by a series of more or less parallel mountain chains, the crests of which separate deep valleys. The Kachins are in the basin of the Irrawaddy, on both sides of the river, between  $23^{\circ} 30'$  and  $26^{\circ} 30'$  N. and  $96^{\circ}$  and  $98^{\circ}$  E. They are chiefly concentrated in the districts of Myitkyina and Bhamo, but they are also found elsewhere, in the district of Katha, in the State of Momeit (Mong-mit), and in the Northern Shan States, especially in North Hsenwi. This territory extends over about 19,000 square miles. It is a series of mountain chains, separated by valleys which dip towards the Irrawaddy.

The Shans are in the east of Burma. They form two main groups—the Northern Shan States, between the Irrawaddy and the Salween, whose principal administrative centre is Lashio ( $23^{\circ}$  N.,  $98^{\circ}$  E.), and the Southern Shan States, astride of the Salween, whose principal centre is Taunggyi ( $21^{\circ}$  N.,  $97^{\circ}$  E.). Nothing can be more picturesque than the road running from Mandalay to Lashio along the river Man-san, which is sometimes a perfectly smooth piece of water, sometimes a rapid current broken by numerous waterfalls, surmounted here and there by piled-up rocks resembling the old *burgs* of the Rhine. The Salween itself is a river of wild beauty. Longer, probably, than the Irrawaddy, it has its source far north, at a point, still unknown, in the region which also gives birth to the Irrawaddy, the Yang-Tse, and the Brahmaputra. It is a relatively narrow stream, running through a deep valley, overhung by mountains rising from 3200 to 6500 feet. It enters British territory in the Shan State of North Hsenwi, and runs through the other Shan States from north to south. Between the Irrawaddy and the Salween, the Shan plateau rises

to a height of from 1950 to 3250 feet, while elsewhere there are great mountain tracts. Loi-Leng, the highest point on the west bank of the Salween, is 9000 feet high, and in the State of North Hsenwi there are several peaks whose height exceeds 7500, while parallel chains are from 4200 to 5500 feet high. The Shan States, north and south, together cover an area of about 57,000 square miles. *Shan* is the generic term which geographers have given to the peoples who principally inhabit them, but they themselves have many others: Tai, Htai, Pai-i, Moi, Muong, Tho, Do, Khamti, etc., under which they are also found, subject to other dominations, in the neighbouring portions of Indo-China. They have, moreover, five or six diverse scripts, and differ, at any rate in some points, from all the surrounding peoples, remaining, up to date, an ethnological and geographical enigma. They appear, however, to have all sprung from South-Western China, and their marked Chinese type attests a common origin. But the configuration of the territory which they occupy has split them into fragments, and introduced differences which have been accentuated by the influence of their various neighbours.

The climate of the Shan plateau is very variable. Between December and March the thermometer sometimes sinks to 22° Fahrenheit, while in the summer season it marks from 80° to 100° in the shade. The rains commence at the end of April or the beginning of May, and last, with intervals, till August. The average rainfall is 60 inches in the large valleys, and 100 on the high mountains. Heat and humidity of this description seem to furnish a material obstacle to the projects of certain irresponsible persons who have favoured the idea of reserving Upper Burma and the

Shan States for European immigration. Sikhs from the Punjab, and Musalmans from the northern and eastern frontiers of India, might colonise these tracts, but in regard to Europeans, such a possibility is very doubtful.

The Karens are found in the south-east, on the Salween, between 18° and 20° N. Like the Shans, they are on both sides of the river, but their chief strength is on the right bank. Other Karens are to be found, much farther south, in the basin of the Irrawaddy down to the districts of Bassein and Myaungmya. These probably represent transplanted populations, and have been largely converted to Christianity. There are five separate Karen States.

The Chins are not grouped in States. Scattered over a huge territory, broken up into separate tribes, and but lately annexed to Burma, they are grouped around administrative centres. The Chin Hills proper, near the Lushai Hills and Manipur, are administered by a political officer, with headquarters at Falan. Below these are the Chins of the Upper Chindwin, in the district of that name. Farther south, the Pakokko Chin Hills are under the Commissioner of Minbu, and, finally, there are the Chins of the Arakan Hills, who are under the Commissioner of the Arakan division.

The Kachins are not the exclusive occupants of the territories in which they are found. They dwell in the mountain tracts of several British and Shan State districts, the plains of which are held by different peoples, and that circumstance has long caused, and still causes, disorder, since the Kachins make sudden irruptions into the plains, pillage and rob there, and flee to the hills with the booty.

I had occasion to study these folk at Myitkyina and



Bhamo. Myitkyina, which is their most important centre, is the capital of the district of that name, and is a small town, the origin of which is practically contemporary with the British occupation in 1895. It is situated in a plain 490 feet above the sea, and enjoys a charming climate, with marked variation of seasons. It is connected with the coast, from which it is about 700 miles distant, by a railway and by the Irrawaddy, but the latter river is not navigable by large steamers above Bhamo.

Bhamo, another Kachin centre, is the capital of the Bhamo district. The town, which lies on the Irrawaddy, contains a considerable Chinese element, and was vainly claimed by China after the fall of the Burman kingdom.

The Bhamo district is administered by a British Deputy Commissioner. The officer I knew there had served his apprenticeship for some years in the Shan States. As Bhamo is on the Chinese frontier, and there are Kachins both in Burman and Chinese territory, this officer was sent to China for two years to learn Chinese. The Bhamo district contains three subdivisions. Two of these, mainly occupied by Burmans and Chinese,<sup>1</sup> are administered, under the control of the Deputy Commissioner, by Burmans who have received an English education; but the third, or Kachin, subdivision is under an Englishman. That is one of the principles of British administration in regard to uncivilised tribes, which are never given over to the authority of a native

<sup>1</sup> These Chinese are a different class from the emigrant coolies who go to such places as Borneo and the Transvaal. They have settled down in the country, and many of the Chinese of Bhamo were born there (one of them is a municipal councillor). They come from Yunnan, Fo-Kien, and Kwantung, and elect sectional chiefs of their own, who are consulted by the British administration on various occasions.

functionary. Throughout Upper Burma the functions of a criminal sessions judge are usually discharged by the Divisional Commissioner. In the Kachin tracts this work is performed by the Deputy Commissioner; and officers of other services, such as the Forests and Public Works, who are quartered in Kachin areas have larger powers than they would possess in ordinary districts.

The Kachins are a people of curious customs. You may see them passing through a town, in single file, without saying a word. One is tempted to say that they are mere brutes, but those who know them judge them better. Their attitude is the consequence of the life in their mountains, where the narrow precipitous paths oblige them to walk one after the other, and to keep a careful eye on things and creatures which may threaten them—creepers, thorns, wild beasts, and men. Having thus to watch for their lives, they naturally abstain from speech. The ruling elders of their villages often expel individuals whom they judge to be bad characters, but this does not arise from mere barbarity. They know that with them a word may develop a quarrel, and wordy insults a murder, which may lead to feuds that will destroy families and villages. It is better to take precautions against this by the expulsion of dangerous men. Their morals are very lax. Their girls give themselves to any one they choose, but once married, remain faithful to their husbands. Their dirt is revolting. A French missionary who lived among them told me that when a woman gets a new garment she puts it over the old one, which is gradually allowed to rot. Their courage, however, is extreme.

The wild and strange character of these people has dictated their control by specially trained officers,

who know and can appreciate them, and they are administered under a special Hill Tribes Regulation, which it is left to the Deputy Commissioner to apply. The Kachins are to be found on both sides of the Anglo-Chinese frontier, which is in many parts undetermined. There is no definite dividing line at which one nationality gives place to another, but a crowd of little independent organisations which move sometimes to one, and sometimes to the other, side of the diplomatic frontier. The Kachin tribes, although of the same race, are not necessarily friends, and plunder one another, the strong oppressing the weak. The delimitation of the frontier between Burma and China may have left a powerful Kachin tribe in Chinese territory, and a smaller one, upon which it lived, in the British sphere, or *vice versa*, and raids and counter raids went on after the delimitation as before. The English endeavour to cope with this state of things by periodical conferences. British officials from the Shan States and the districts of Bhamo and Myitkyina annually meet the British consuls in the neighbouring Chinese provinces to discuss the existing situation. Sometimes, again, the British frontier officials meet the corresponding Chinese officers on the other side, to arrive at satisfactory settlements in regard to raids and other matters. Thanks to arrangements of this description, the English have been able, without formal recourse to Peking, to make a military road from Bhamo into the plain of Banwaing in Chinese territory, and a steam tramway will shortly run here. There is as yet nothing which can compete with the railway from Tonkin to Yunnan, but the point deserves the attention of French readers.

## SECTION II

*The Shan States*

The Shan peoples appear to have had a great past, the traces of which are still seen, here and there, in the shape of imposing trenches and ramparts, behind which, however, there is nothing but shapeless ruin. In any case, the Shan States are to-day under the protectorate of the English, who have inherited the rights of the Burman kings acquired since the seventeenth century. All the States over which the Burman protectorate extended had in process of time become more or less Burmanised, especially in the direction of Bhamo, and in the west and north-west. At the end of King Thibaw's reign there were about sixty of these States, large and small. They had to pay tribute, and those which were nearest the plains of Burma paid it regularly; the others, those beyond the Salween, and more particularly those on the Mekong, paid intermittently according to circumstances. The total of these various tributes amounted, under Thibaw, to a nominal figure of £30,000, to which must be added £20,000 realised by taxation on pickled tea, a condiment greatly appreciated in Burma.

After the conquest of Upper Burma, in 1885, which finally overthrew the combinations by which a foolish policy had thought to threaten British aspirations, the English, who are never in a hurry to take actual possession of territories which they think cannot escape them, would probably have allowed some time to elapse before showing their flag along the Salween. They were, however, obliged to do this forthwith. In 1885

all these regions had been very troubled. A number of Shan chiefs had assembled beyond the Salween, in the State of Kentung, and had there, under the direction of a Burman prince, formed a confederacy with the object of overthrowing King Thibaw. At this moment the English entered Upper Burma, to the great surprise of these barbarians, who had only a very distant acquaintance with the policy of the Government of India. After Thibaw had been defeated and deported, the confederacy might have been expected to dissolve. But the chiefs desired first to take vengeance on some of their *confrères*, who had refused to enter into their schemes. The latter sought the protection of the English, and in February 1887 these came to their assistance. In May the confederacy was broken, and Prince Limpin exiled to Calcutta. The British erected a fort (Fort Stedman) in the centre of the Shan States, around which grew up the town of Taunggyi, where the Superintendent of the Southern Shan States now resides; and pacificatory columns traversed the country to receive the submission of the chiefs (Sawbwas). Those who showed themselves loyal were confirmed in their existing positions, even though they might have owed these to usurpation. By 1889 the submission of the Southern Shan States was fairly complete. The Northern Shan States were occupied somewhat later. Towards 1893-4 the British commenced to delimit their territories with those of Burma proper, and about 1895 took their organisation in hand.

The Shan States are to-day divided into four groups, the Northern Shan States, the Southern Shan States, and the States respectively included in the Sagaing and Mandalay divisions of Burma.

The Southern Shan States are thirty-eight in number,

and five Karen States are also administered by their Superintendent. The Southern Shan States are, in general, more advanced than the Northern; richer, better equipped, and more fitted to support contact with, and receive the impress of, the Anglo-Burman administration. They are, however, of very varying degrees of importance, as may be seen from the tribute they pay to the British Government, which varies, according to the character of the State, from Rs. 2000 to Rs. 40,000 a year.

The only Shan State now surviving in the Mandalay division is in the Ruby Mines district, and is under the control of its Deputy Commissioner, and there are only two in the Sagaing division.

The Northern Shan States, which I shall describe more fully, as I have visited them, are five in number: Hsipaw, North Hsenwi, South Hsenwi, Manglon, and Tawngpieng. There are also some Wa States, in regard to which the British know and interfere little.

The State of Hsipaw has an area of about 5000 square miles, and a population of about 104,000, with a revenue of some three and a half lakhs of rupees. Its late Sawbwa, Kun Saing, quarrelled with King Thibaw and fled to Rangoon. He carried with him there the habits of a barbarous and omnipotent chief, and, in a fit of rage, slew two men. For this he was condemned to death by the British courts, but the sentence was commuted to imprisonment, and he was soon after pardoned by the then Chief Commissioner. On the fall of Thibaw he regained his State, and, in 1887, he was the first of the Shan chiefs to submit to the British Government, proceeding to Mandalay for the purpose. This procured him the remission of ten years of tribute, and the extension of his power over some petty neighbouring

States. Led by mental curiosity, or by the cleverness of a courtier, he visited England on two occasions, and had his son educated there. The latter, who is now about thirty years of age, is a handsome man, who has had the tact to retain his national dress. He allows his State to be administered by good officers, lent to him from Burma. He is passionately fond of arboriculture, and proud of his fine orange groves, which yield him some revenue. He is a freemason, and assists at meetings of the craft. The Government dissuades him from going to Rangoon, where he would incur debts, but he runs these up all the same. His father had only three wives, while he, on a smaller civil list, indulges in sixteen. At intervals settlements are made with his creditors, and he then breathes freely—and begins again.

North Hsenwi deserves attention in various respects. Astride of the Salween, it contains two rival races, Shans and Kachins; and its chief, as is often the case in India proper, differs in blood from his people. He is a Wa by birth, although a Shan by education; and, as a result of a former outbreak by these, the British Government has withdrawn from him direct authority over his Kachin subjects, who are administered by a British officer. The present State is a fraction of an originally larger body which included what is now South Hsenwi. When the British came on the scene they found that this State had two claimants, a usurper, who was in actual possession, and the legitimate chief, whom Thibaw had imprisoned at Mandalay. Their decision recalls the judgment of Solomon, for they divided the State in two, and gave the north to the usurper and the south to the rightful heir.

North Hsenwi extends over 6300 square miles, and

has a population of about 120,000, of whom 72,000 are Shans and about 30,000 Kachins, the remainder being Chinese and Palaungs.

The Kachins are a short, thick-set, sturdy race, adept cattle and horse stealers, very obstinate, and slow to comprehend law and discipline. They are, however, less turbulent here than in Burma. They produce and sell wheat and opium. The Chinese, who come from Yunnan, also produce these articles, but they are not, for the most part, permanent settlers; they return to China when they have made enough money. The Shans cultivate rice, sesamum, ground nut, and tobacco. None of the inhabitants are model cultivators or taxpayers, and the State is endeavouring to bring in colonists from outside, chiefly from Burma and the regions from beyond the Salween.

The Sawbwa is a vigorous man of about sixty. Though a Wa by race, his physiognomy is European, not Mongol. He is very religious, and has four wives and many children. The English, as above stated, rule the turbulent Kachins in his name, while he administers the Shans. He is surrounded by a number of officials, relations, and friends, who constitute a sort of council. He obtains their advice, and then does what he wishes.

The British administrator, even in these remote parts, is not left to himself. Rules of conduct are prescribed for him by the Burma Government, and if he departs from these he has to give an explanation. He is assisted by a Shan agent of the Sawbwa, in whose name he raises revenue. His functions are not easily defined. Among the Kachins he is all-powerful, being at once political agent, administrator, and judge, while among the Shans he has only to ascertain what is going on and report irregularities to the Sawbwa. Shans



and Kachins are, however, very much mixed up, so that in the course of his tours this British officer is constantly passing from one to the other.

There are forty-five Shan and forty-one Kachin circles. A Shan circle is under an officer nominated by the Sawbwa, while the Kachins elect their circle head, subject to the confirmation of the British officer. The Shan circles are all much the same; the Kachin circles vary very much in size—one may include ninety villages, another only three, while one "village" may have only two houses, and another a hundred. Kachins and Shans alike pay a household tax (*thathameda*), which amounts to Rs.5 per household for the Shans and Rs.2½ for the Kachins. The State revenue is about a lakh of rupees.

South Hsenwi has an area of about 2400 square miles, and a population of about 68,000. Most of these are Shans; but there are some Kachins, Palaungs, and Chinese. The chief, who is about fifty, is indolent. He has some thirty wives, and a bodyguard of a hundred men, which gives him a great idea of his importance. He governs through various ministers, if such a term can be fitly applied to men whose pay ranges from Rs.50 to Rs.100 a month. The State is divided into twenty-four circles, at the head of which is an officer paid by a commission of 10 per cent on the revenue that he raises. He draws up the registers for the household tax, and communicates them to the British agent, who revises them, where necessary, with the assistance of one of the Sawbwa's ministers. The control over these officers is necessarily lax, and the chief evidence of malversation on their part is furnished by the flight of taxpayers into a neighbouring State. South Hsenwi carries on a brisk, but not large, trade

with Burma, Siam, and the Southern Shan States. To Burma it sends pickled tea; and receives thence salt, rice, petroleum, dried fish, Manchester cottons, areca nut, cotton thread, and condensed milk. To Siam it sends petroleum and sesamum.

The State of Manglon has an area of about 2500 or 3000 square miles, including five little feudatory States, and a population of about 40,000. It is a mountainous country, occupying both banks of the Salween. It has two divisions, East and West Manglon, which were formerly separate States. The western chief, however, refused to recognise the British political agent, and took refuge among the Was, upon which his eastern neighbour presented himself to the agent, and received the whole State as a reward. The present chief, who is now seventy years of age, is himself a Wa (barbarians always seem to prosper in more civilised lands), and, although a convert to Buddhism, is very influential among his tribesmen. Like his mother, he speaks Shan, which is the language of the State.

The State has two capitals, that of the Sawbwa, and that of his ministers, situated about 10 miles from each other, a miniature Paris and Versailles. The methods of administration are still more rudimentary than in the other Shan States, and British control is less strict. The inhabitants lose by this, for the Sawbwa has sometimes a heavy hand, and the revenue suffers also. It is said to be only about Rs. 10,000, but that is a figure given by the Sawbwa himself, who has perhaps an interest in making it low, for his present tribute is only Rs. 500. His chief expenditure is on public works, and mainly on roads which will serve for the movement of his troops, for he is often obliged

on the north and east and Chinese on the west. In this respect he is left perfectly free, for he is working in reality towards British dominion. The English, who, if they replaced him, would have to take over the useful work he now does for them, are careful not to interfere with him. On the contrary, they have on several occasions given him material assistance.

### SECTION III

#### *The Policy of Pacification*

Nowadays all Colonial policy rests upon a Native policy, and a sound Native policy is based on a policy of pacification. A conqueror commences by pacifying, and remains to administer. The methods of pacification dictate those of administration, and the two periods are closely intertwined. The English excel in the art of pacification, not owing to any special sympathy with the subject peoples, but because they have had long experience of this delicate operation. Their bygone faults have cured them of premature ambitions and of taking imprudent steps. They heartily recognise courage, and loudly proclaim their admiration of heroes, but their real rewards are for prudence and ingenuity.

The original conquest of Burma was easy. Three weeks sufficed to dethrone King Thibaw, but three years were required to subdue the dacoits. On the frontiers, in the mountainous regions of the Chins, Kachins, and Shans, the peoples were on the alert; the least mistake might lead them to take up arms; and a universal war was only averted by tact.

Where a possible enemy was in strength, it was necessary for the British to show themselves with forces

which would command respect. Among the Chins, for example, there was a tribe supposed to be capable, with its allies, of setting in movement 10,000 men. Its country was visited by a British column of 800 men and four guns, and no one dared stir. I give below the definite and detailed prudent instructions which were issued in another region, that of the Kanhaws, in 1891-2. The political officer was everywhere to be accompanied by a military column which was to be strong enough to prevent opposition, or break down resistance. Supported by this force, but making as little actual use of it as possible, the political officer was to traverse the country, obtain as much information as he could, penetrate into the villages, and explain to the chiefs and the inhabitants the instructions of the British Government. They were to pay tribute, and to be governed by a chief, or headman, accepted by the notables and the population generally. Every chief thus chosen would have his territories carefully marked out, would be confirmed in his traditional rights, and would receive a *sanad*, or title-deed, which would fix for the future the nature of his relations with the Government. This *sanad* was to contain : (1) a description of the chief's territory ; (2) the amount of tribute to be paid by him during the following five years ; (3) a prohibition of raids on neighbouring territories ; (4) an engagement on the chief's part to surrender murderers, dacoits, and rebels ; (5) a declaration of his submission to the British authorities. If, notwithstanding all these precautions, the tribe resisted—which rarely happened—it then became necessary to employ force, to arrest the chiefs, to confiscate firearms and other weapons, to seize cattle, and sometimes even to burn houses.

In the Kachin hills, near the Chinese frontier,

inhabited by tribes who were, for the first time, to come into contact with Europeans, the instructions given were still more prudent and definite. The political officer was not to endeavour to occupy the whole territory which the British might claim as heirs of the Burman kings; he was to use his discretion on this point, according to the tranquillity, or absence of tranquillity, of each tract. He was to trace a line between the occupied areas and the rest. The occupied areas were to be regularly administered, while for the others *surveillance* would be sufficient. The inhabitants who settled in the occupied areas were to be guaranteed the peaceable enjoyment of their territory. In return, they were to submit to taxation and police, to give up their arms, to pay licence fees for the guns left to each village, and, above all, to renounce their traditional vendettas, and await justice from the Government.

Family, and sometimes tribal, feuds are the scourge of these regions. Personal retaliations pursued from generation to generation, unpaid debts and accounts to be settled, hurl them periodically against one another.

The British officers were to assure themselves, by careful inquiry, whether there were feuds, or debts; to settle accounts on either side; to decide upon what was to be paid—for nearly everything can be settled with money; and to supervise the carrying out of engagements thus entered into. After that every raid, even if provoked, was to be severely punished.

With the Kachins the British were faced with the problem of slavery, and were careful to avoid any precipitate decision. The instructions of 1892-3 were of the most discreet character. The officials were to insist, so far as that might be politic and expedient, on the

restitution of slaves taken in previous raids, but they were not to interfere on behalf of men who had voluntarily gone into slavery to pay a debt, or in the case of hereditary slaves who were well treated. They were, however, to announce to the Kachins that the British Government disapproved of slavery, and that British law forbade it; that the Government would, therefore, withhold support or encouragement from this institution; that it would punish ill-treatment; and that it would not assist in the recapture of fugitives.

The policy adopted in regard to the Shan States was of the same character. I have already described the Northern and Southern Shan States. In respect of those which were surrounded by Burman territory, the measures taken were dictated by local circumstances. Hkamti-Long, which had long withdrawn itself from Burman influence, was, for the time, left alone. Mong-Mit was placed under the control of the political agent. In Wuntho the Sawbwa, after a period of apparent submission, fled at the approach of the English; his son, by whom they had replaced him, presently joined his father in the jungle, and was deposed; and the State was then annexed.

By 1894 Burma may be said to have been entirely subdued, and the British Government forthwith set on foot its habitual methods of pacification, viz. the construction of roads, and the establishment of post and telegraph offices.

The outward pacification of a country does not, however, imply the tranquillising of the mass of the people. That is a work of time, as the English, who are experts in a Native policy, are aware. Lasting submission will not be brought about by mere flying columns, or by the tours of peripatetic officials. These

must be backed, at any rate for a time, by a permanent military force. Accordingly, on the Chinese frontier, and in the heart of the Shan States, the British have erected strong forts, whose communications with the rest of the country are assured by roads, by heliographs, and, in some parts, by railway. Finally, there is a military as well as a civil police.

The Burma civil police is, like that of India proper, organised in a very interesting, though not in a perfect, way. I shall have occasion to describe this on a later occasion; it will suffice to say here that it is not employed in the mountain tracts, for the mountaineers will not suffer the presence of the Burmans who compose it. The military police has been brought to a state of great efficiency in Burma, and the services it has rendered, especially during the pacification period, have exceeded those of the regular troops. It is organised in military fashion, is a little army in itself, and garrisons forts and provides escorts for officials. Its officers are drawn from the regular Indian army, and, after serving from two to five years in the military police, return to their regiments. The men are, for the most part, recruited from the fighting races of India, with the addition of some Karens and Shans. No Burmans are received. This service, which was at first very unpopular, is now much sought after. In the Northern Shan States the civil police have three main stations, and the military police four, and there are altogether some 600 men. This figure may be doubled in order to get the approximate total in all the States.

For a territory covering some 67,000 square miles this is very little, but its efforts are supplemented by the vigilance and precautions of the Government. Among the Kachins, for instance, the Deputy Com-

missioner has very large powers. If a man is suspected of intending to disturb the public peace, a Deputy Commissioner may call upon him to furnish security for his good behaviour for the next three years, and, if need be, expel him. He can also hold a village collectively responsible for crime or disorder. This collective responsibility extends to whole tribes. A hostile attitude towards the Government, complicity with dacoits, attacks on trade caravans, may bring upon a tribe the confiscation of its arms, and fines, a part of which will be paid as compensation to the victims. Finally, as a last resort, when a whole region has rendered itself culpable, recourse is had to a blockade. That is a method with which the Government is thoroughly familiar on the north-west frontier, and in Burma it was employed, in 1893, against the Piya Chins, in the hills of Arakan.

The tranquillising of the people was looked for, however, not merely by means of force and careful administration, but through pacific methods, the carrying out of public works and hygienic arrangements. These people are afflicted with numerous maladies: fever, syphilis, leprosy, smallpox, goitre, and all sorts of skin affections. They had no doctors, and their empiric methods were exceedingly bad. The English opened dispensaries and some hospitals, among them a travelling hospital, which, every year, deals with from three to four thousand cases. They have appointed vaccinators, whose services, however, are only rendered when the people desire them, and they impose or advise, according to circumstances, certain sanitary rules in regard to such matters as the sites of villages, the clearing of jungle, and the use of the trees.

I need not say that they show the greatest respect



to religion. Every creed celebrates its festivals, and takes holidays in honour of its saints. During my stay at Lashio I found the public offices closed on full moon days in order that the Buddhist clerks might go through their devotions at a neighbouring monastery.

#### SECTION IV

##### *Instruments of Policy—Native Chiefs and British Officials*

In a country such as that with which we are dealing, split by Nature into fragments, and inhabited by diverse and hostile populations, an inexperienced conqueror would have thought it natural and easy to get rid of all its feeble princelings, and bring everything under the level of British administration. The English have been careful to abstain from such a course of action, which would have united everybody against them. They were only too happy to come across States already organised in a rudimentary fashion which would serve as a basis for the organisation of the future, and they maintained the chiefs and their traditional hierarchy. The only innovation which they allowed themselves was a reduction in the number of the Chin and Kachin chiefs. The Shan States are all of a respectable size, but the Chins and Kachins are democratic, and had not produced persons who ruled over large territories. In the same valley, on the same section of the frontier, chiefs might be counted by the dozen, invested by birth with great privileges, proprietors of land which the tribesmen cultivated for them, and entitled to a share of the animals sacrificed. It would have been dangerous to suppress them, but inconvenient to maintain them all.

Accordingly selections were made. Among the Chins the British established a *panchayat*, a superior council of elders, before whom other chiefs of the same class might settle their differences. Among the Kachins the chiefs were already of two degrees—village heads and chiefs of tracts. Half-a-dozen of these latter were constituted into a sort of tribunal, without very definite powers, but entrusted with the settlement of suits and the arrangement of quarrels, under the supervision of a British officer. Among the Shans the old hierarchy of *Sawbwas*, *Myosas*, and *Ngwegunhmus* was maintained, and those of one class were, if they rendered special services, promoted to another. The Shan chiefs are hereditary, but, although Buddhists, or Animists, they generally follow the Musalman rule, by which the brother of a dead man is preferred to his son. They are idle, and readily disposed to neglect the performance of their duties and pass their time with their wives. They are sorry defenders of order; they gamble, oppress the people, and are often in connivance with (sometimes actual allies of) criminals, whom they withdraw from the pursuit of the police. All have debts, which they endeavour to keep from the knowledge of the English Government, for the immediate punishment would be the cutting down of their civil lists. Although creditors know that debts contracted without the authority of the Government are null and void, the prodigals can always find money-lenders. The restraint which British rule imposes upon them has, however, its compensations. Every now and then a Myosa is made a Sawbwa; a Sawbwa is made a C.I.E. (Companion of the Order of the Indian Empire), or receives a salute of nine guns, or is permitted to raise the number of his bodyguard, or increase the quality of his weapons,

substituting spears for his *dahs*, and knives and guns for spears. Like all men, the Sawbwas are sensible to such distinctions.

But there are more substantial advantages. The Government supports them against rivals, permits them to name their successors, assures them of the revenues and traditional services which their peoples owe to them, and constitutes them, subject to certain conditions, civil and criminal judges. All this is contained in a special *sanad*. That of the State of Kentung, which I take as a specimen, contains the following stipulations :—

(1) Determination of the tribute which the State is to pay.

(2) Prohibition of relations with other States without the permission of the Government.

(3) Cession to the Government of India of property in the forests and mines of the State.

(4) Obligation to respect the customs and traditional rights of the people, to protect commerce, and to maintain communications.

(5) Right of the chief, if he wishes, to have an agent with the Superintendent of the Southern Shan States.

(6) Acceptance of arbitration by the Superintendent in case of differences with another State.

(7) Obligation, if the Government desires to make a railway, to provide the necessary land.

(8) Provision for adequate taxation of opium and spirits.

(9) Extradition of criminals, and assistance to the police in respect thereto.

(10) Limitation of the jurisdictionary rights of the chiefs in respect of Europeans, Americans, or officers of the Government.

It need not be supposed that all such obligations are

rigorously observed. The Government knows with whom it has to deal, and when it is expedient to insist on them. They are precautions which it makes use of with discretion, while it endeavours, as time goes on, to educate its collaborators. The adult chiefs are educated by contact with actualities. They are sent to travel in groups, and go to distant parts by rail. The journey is broken at Mandalay and at Myingyan, where troops are reviewed; thence they go on to Rangoon, where they see the sea, the harbour, shipping and commerce. What is aimed at is to impress them with a sense of British power, as compared with the pettiness of their own States, and to teach them to appreciate the material civilisation of Europe. Again, under an able guide, they are made to assist at a prodigious ceremony, like the Delhi Durbar of 1903, where they see hundreds of chiefs, richer and more powerful than themselves, bowing before the Government to which they submit. It is not supposed that they will carry away all the lessons embodied in such a course of instruction. Often what strikes them most is some petty or ridiculous detail, such as a dog riding on an elephant in a circus; but even spectacles of this sort suggest useful reflections in the end.

Then, again, in their own country, as many village headmen as possible are collected in a *darbar*, and it is explained to them that they are all subject to the same demands, and have all a right to the same favours. Such equality in obedience encourages them.

After the practical education of the fathers, comes the theoretical education of the children. Following the Indian precedent, a school for the sons of chiefs has been established in Burma. At Taunggyi, the capital of the Southern Shan States, it has had an unlooked-for

success. The boys prefer the school to their own homes ; they sometimes ask to remain there during the holidays, and they profit by their studies. Their bodies are looked after as much as their minds ; they are taught football, cricket, and other games. They learn Burmese and English, and future ruling chiefs obtain some knowledge of revenue and justice. The school, which started with 14 pupils in 1902, had already attained to 73 in 1905. It began with two masters, but more have had to be engaged, and it is even now too small. It receives not merely the sons of ruling chiefs, but those of their officers, and of other important Shan personages. And the example has borne fruit : in five or six places requests are being made for an Anglo-vernacular school for other classes of children.

The British officials employed in these tracts are, primarily, political agents, and officers placed by the side of the chiefs. Theoretically, they advise, and do not administer, but as their advice is often not followed, they have then to take in hand the actual direction of affairs, though they save appearances by working behind a native authority. These officials are, moreover, not numerous, and in this respect the economy of the Government has degenerated into parsimony. For years past the Superintendent of the Southern Shan States has vainly asked for an adviser for the Sawbwa of Yaunghe, who gambles, sells justice, and oppresses his people. The forests are badly served ; the timber trade has penetrated there, and the tribes practise at their will a very casual and prejudicial sort of cultivation. Nevertheless, the Government refuses foresters. Public works in these regions are rudimentary. The British advisers lack practical skill in bridge-building, and professional public works officers are asked for, but

cannot be obtained from the Local Government. The few officials which it does allow are peripatetic. The system is an excellent one, but they are kept on the move without ceasing. Owing to the innumerable and unforeseen necessities of an inadequately manned service, they are constantly being transferred, and nothing can be more repugnant to the natives, or more hurtful to the administration. For these populations England, the British Empire, India, nay, the King and the Viceroy, are unknown beings or entities. What they do understand, what they love or fear, is a particular man, whose face and temper they know, and in whom they incarnate the Government. To change him year by year is to put their fidelity and patience to a severe test, while such a system adds enormously to the work and difficulties of a newcomer. An official in the Northern Shan States wrote, in an official report, that out of several thousands of rupees he had only Rs.30 in arrears, and declared that the raising of the tax had become very easy since the village heads had come to know him, and spontaneously brought in their dues. That was the happy result of personal influence derived from a long stay in the locality. The Government neglects these advantages too much. The reproach, however, should be levelled at the Government of India rather than at the Local Government.

The British officers employed in the Shan States are drawn from various sources. At the time of my visit none of them belonged to the well-known Indian Civil Service. One came from the Burma provincial service, which is mainly reserved for natives, but which, since the annexation of Upper Burma, contains a specially trained and selected European element, since there are posts among wild frontier tribes which could not be made

over to Burmans. Another officer belonged to the Indian army; he had applied for political service and had been admitted into the Burma Commission, which includes military officers as well as Indian civilians. He loved his work, and spoke Hindustani, Burmese, Shan, Kachin, and a special dialect—Maru.

All the officers employed here, from whatever service they come, have within three years to pass an examination in law, revenue, treasury work, and Burmese, and if they fail they are returned to their previous duties.

Only a European can be an officer to a Sawbwa. The natives of each State can of course enter the service of their chief, but where races are mixed authority is in European hands. The best Burman official would not be posted to a Shan State or a Kachin tribe; the best Shan official would not, even in his own State, be put at the head of a tract inhabited by Kachins. The Burman despises the Shan and the Kachin as barbarians; the Kachin abuses the Burman as a coward.

The European officers here are paid on a modest scale. The Superintendent of all the Northern Shan States gets Rs. 1350 a month. He has under his orders an Assistant Commissioner on Rs. 700, two Extra Assistant Commissioners on Rs. 500, and two assistant political officers on about Rs. 450.

In the Kachin tribes which are included in the districts of Myitkyina and Bhamo, on the Chinese frontier, the organisation is different. These districts contain plains inhabited by Burmans, and hills occupied by the Kachins. At the head of each is a Deputy Commissioner, a member of the ordinary Burma Commission, but selected for one of these districts by reason of his special acquaintance with the language and customs of the people. Under the Deputy Com-

missioners are subordinate civil officers for the hill tracts, who are also selected for special qualifications. Their age is about thirty and they are unmarried. They get Rs. 300 a month, *plus* certain additional allowances, but may be eventually promoted to be Extra Assistant Commissioners on Rs. 800 a month. They are attracted towards their particular duties by a taste for an open-air and adventurous life, and also by the possibility of obtaining special promotion or decorations.

The principal duty of these officers is to know the people entrusted to their charge, and such knowledge is of capital importance. For instance, it was not at first understood that the Kachins congregate in little clans. Since the authorities became aware of this, circles which formerly included Kachins of different tribes have been replaced by lesser units embracing one tribe only. The Shans and Palaungs, on the other hand, live readily together. Villages may be constituted of members of both peoples, and under a headman drawn from either tribe.

Language is another important factor. The Chin and Shan dialects, although belonging to the same general family, differ very materially. Shan is written in five or six different characters. Kachin has never evolved an alphabet, and has had to be transcribed in Roman characters. The officials are encouraged by many rewards or additions to salary, to learn the local vernaculars.

In respect of their ordinary administration work, they receive general instructions, the detailed application of which is left to their discretion.

Touring is an administrative method employed throughout India. All executive officers, high and low, to whatever service they belong, have to perambulate



their territories for a certain period of each year, according to the character of the season, the duration of the rains, and the extent of their charge. The tours thus enjoined are not a series of hurried journeys from the centre to the outlying places and back again, but are slow and prolonged progresses in which an official is accompanied by some of his subordinates. During the course of his tour he maintains communication with his headquarters, and is thus able to despatch current business, and at the same time to make acquaintance with places and people, to dispose of local questions, to control the work of his subordinates, and to give instructions for the future. This procedure is only enjoined on political officers of the Shan States. It is, however, necessary, and especially in regions where communications are slow, that there should be a competent subordinate at headquarters during the absence of his chief on tour. Now, the political officer is often alone, and it is therefore impossible for him adequately to avail himself of this efficacious method of entering into relations with the people. That is a defect in procedure, or rather a deliberate economy, which would be ridiculous if it had not been erected into a system. The Government of India, and that of Burma, think that these new countries can wait, and that, having regard to the immensity of the Empire, it is desirable to spend the money available where the returns will be largest.

A good officer takes advantage of his tour to revise the map of the regions through which he passes, to delimit the villages for land tax, and to inform himself as to the state of the roads, to realise the tribute due, to mark licensed firearms, to check registers, and so on.

In the districts of Bhamo and Myitkyina the Deputy Commissioner has not to tour in the hills. His civil officers do that for him, and he merely visits them at their headquarters. His business is to control their work, to verify their diaries, to receive appeals from their judgments, and, when necessary, to call them up to him in connection with any specially important matter.

In short, in theory, and often in practice, the British administrator is kept very close to the peoples whom he administers, and thus acquires knowledge of men and things, while he is constantly subjected to superior control, and thus kept in touch with discipline, *morale*, and civilisation.

## SECTION V

### *Law and Justice*

I must emphasise the fact that the English have an extraordinary regard for legality. The proceedings of their courts are perhaps no nearer abstract justice than those of French tribunals, but when an English magistrate delivers a questionable judgment, it is not because he has been left without codes and directions. Nor can the defendant accuse the Government of carelessness and indifference, still less of any deliberate injustice. It has made the laws, and appointed judges to administer them.

This is nowhere more apparent than in those wild regions which constitute the Shan States and the Kachin Hills. When one studies their political condition, the first documents met with are those relating to law and justice.

The Government of India has formulated precise laws, such as the Kachin Hill Tribes Regulations, the Chin Hills Regulations, and the Shan States Law and Criminal Justice Orders. It has also provided judges and magistrates, who, though they might be out of place in the highest tribunals of France and England, furnish real guarantees for the carrying out of the laws. Every officer who is likely to exercise judicial functions, has to pass a special examination in law. A definite series of appeals is provided, and certain special matters are reserved for the superior courts. The Government of India, however, has never thought that it could apply to these new countries the law of England, the special Indian code laws based upon these, or even a law which should be common to all the tracts. It considers it necessary to make special enactments, not merely for a certain area, but for special parts of it. Under an Act of Parliament of 1870, territories of this description can be specially legislated for by Regulations of the executive Government of India, while under an Indian Act of 1874 there are "Scheduled Districts," to which the Local Government, with the sanction of the Government of India, may apply only such portions of existing Indian legislation as it thinks appropriate. In the exercise of these powers, Kachins and Shans are dealt with by separate local laws, and even in a Shan State, certain more advanced areas, the capital, for instance, receive legislation which is not applicable outside of them. As time goes on, the legislation which at first sufficed is replaced by enactments more suited to the new circumstances. These regulations are, of course, simple enactments, and deal mainly with important questions, such as slavery, crimes against the State, forest offences, evidence, procedure and penalties, cases

in which capital punishment may be inflicted, and so on. Everything is as short and clear as possible, and the local judge is guided step by step. Murder, for instance, and the part which premeditation plays in it, are clearly defined. (Former local practice, it may be noted, did not take premeditation into account.)

The laws are humane in that they seek (a novelty for these people) to apportion the penalty to the crime. They are also prudent in that certain delicate matters, such as those relating to religion, succession, and marriage, are left to be regulated by the creed and custom of the parties. In some cases, too, they set aside the ordinary judges of first instance, and place a matter in the hands of a more competent tribunal, which has the assistance of native assessors, although their advice need not necessarily be followed.

In all these regions the people are still wild, and have few scruples as to taking what they want, whether it be the property or the life of another. Crimes are frequent: smuggling, false coining, the cutting and theft of telegraph wires, cattle theft, murder, armed attacks (gang raids), raids for pillage or to obtain slaves, and even infanticide.<sup>1</sup> Crimes of violence, such as dacoity, murder, and theft by armed men, must be brought to the cognizance of the political officer. The native officials are indolent, and sometimes cowardly in presence of crime: they would willingly close their eyes; the political officer encourages them, or obliges them to prosecute.

In the Shan States civil and criminal justice is organised in a rudimentary fashion, the main object

<sup>1</sup> One well-known class of criminal is the Wa head-hunter. Head-hunting is regarded by these people as an honourable occupation sanctioned by religious or superstitious motives. Two men go out together, with the object of cutting off heads at random, and will bring back four or five, not knowing even the names of their victims.

being the maintenance of order. The judges in both cases are the same. The most important civil and criminal cases are brought before the chief himself, or, rather, before a special deputy representing him : others come before lower officers. Appeals lie sometimes to the political agent of the State, sometimes to the Superintendent of the whole group.

Theoretically, the chief is empowered to dispense justice to his subjects, but the political agent intervenes when the parties are Burmans, Indians, Chinese, or members of a different tribe (*e.g.* Kachins in the Shan States), and in other special cases, while Europeans are always exempt from the chief's jurisdiction.

The judicial scruples of the British have been developed to the highest extent among the Kachins. There are three different methods of criminal procedure, according to the tract. I will take as a specimen the system prevailing in the hill districts of Myitkyina. Petty offences are here dealt with by heads of villages, according to the local custom ; assault, violence, cattle maiming, theft, and adultery by the civil officers ; and cattle theft, murder, and dacoity by the Deputy Commissioner according to the Penal Code. Death sentences have to be confirmed by the Commissioner of the division. Appeals lie, according to circumstances, to the civil officer, to the Deputy Commissioner, and to the Commissioner.

## SECTION VI

### *Economic Policy—Agriculture and Commerce— Public Works—Finance*

In the course of their rule, the English were bound to meet with obstacles. The native peoples had their

own customs and secular methods. A Western conqueror intervenes, prescribing a morality, and imposing a line of conduct which upsets the old economic life. The Chins, for instance, have two methods of enriching themselves, cattle lifting and the capture of slaves. Both are now forbidden, and how are they to live, for a long time must pass before they take kindly to agriculture and can prosper by commerce? The Government, however, bestirs itself: it introduces new cultures; it recommends the potato, teaches the use of cachou, and so forth. The taste for work spreads. Those who were formerly pillaged and their pillagers now combine in production, and we see the Chins exporting mats, which they weave, wax, and maize, and importing rice, salt, cattle, and gongs.

The Kachins come willingly to the markets of Mogaung and Myitkyina, where they sell vegetables, rice, sesamum, and forest products, such as wax and rubber. They have, however, but little to sell, for their methods of culture are rudimentary. They practise what is called *taunggya* cultivation in Burma. In January they cut the jungle where it is thickest, and when it is dry, in March or April, they burn it. The earth is thus covered with a thick bed of ashes, in which they sow. What they get will depend on the rain and the wind: they will only obtain a harvest if the rain has been abundant and opportune, and if storms have not scattered the ashes. In any case the result is wretched—a few rice shoots here and there. Next year the trees that have been affected by the fire will die, and the jungle will spread again over the ash-enriched soil. For the Kachin to live by agriculture he must settle in the plains, and he is sometimes tempted to do so. From his mountains he sees the Shan and the Burman

working, sowing and reaping. That tempts him: he will do the same. He buys a pair of bullocks, and sets to work. Soon after, if he finds himself in any trouble, he sends for the priest, his daily counsellor, who draws his horoscope. "The spirits (*nats*) are angry," says the priest; "you can only appease them by the blood of a bullock," and lo! the man is half-ruined. Later on come some new troubles, a fresh consultation, the same oracle, and the same sacrifice. Both bullocks are now dead, the plough is useless, and the Kachin is reduced to cultivating by his own primitive methods. He is once more in danger of starvation; the plain has favoured him no more than the mountain, and yet he can only live by the land and prosper by agriculture. But before he can do this, education, and the example of the English and the Burmans, must emancipate him from his absurd animistic religion, and that is a question of time.

These people know the use of money, but it is not necessarily a coined rupee. It may be a bar of silver, or a given weight of opium. It would be quite impossible for them to conceive that silver has decreased in value for the last twenty years and more, and that the rupee, which was formerly worth two shillings, is now only equivalent to 1s. 4d.

The Shans are agriculturists, but are, above all, caravan men. They go everywhere, on foot, on horseback, and with mules. They are met with on both banks of the Salween, and each group of Shan carriers has its own special ground. As agriculturists, they produce rice, cotton, tea, and opium, and rear bullocks and ponies for the use of caravans. As packmen, they export dried and pickled tea, skins, horns, raw sugar, potatoes, lac, and tobacco leaves; and import cotton,

silk, threads, salt fish, betel, copper, and petroleum, carrying on trade with Yunnan, Siam, and Burma. The British have done all they can to develop this trade. A railway has been opened from Mandalay to Lashio (an unfinished fragment of the great line that was to penetrate into Yunnan by the Kunlon Ferry). Some internal taxation has been suppressed. Merchandise which traverses Burma, en route for China, receives at Bhamo a drawback of seven-eighths of the import duties paid. On the commercial routes leading into China the traffic has been regulated, and the security of caravans assured, by the levying of certain transit dues, which are divided amongst the various chiefs, to compensate them for the taxes which they used to take on their own account. Hitherto, however, these ingenious methods have not largely increased the traffic.

Efforts are being made to develop the forests, and especially in the Southern Shan States. A forest division has been constituted, reserves have been created, and certain regions have been entirely closed to exploitation and traffic. Since 1901 the British Government has declared itself the owner of all timber coming out of the forests, and none can issue without its sanction. Its officers mark the trees to be felled, grant leases, and stamp the logs passed for export, which sometimes fetch as much as Rs.10 each. When the amount of timber reserved for cutting in each forest has been obtained, it is closed for a time. Unfortunately, the forest officers are too few, and the Government has not been able to defend its rights. In remote parts, as in the Karen States, the most wasteful exploitation goes on, while even in the heart of the Shan States fraud is not easily suppressed. A Sawbwa will export teak without permission, at the risk, if detected,



of fines which may vary from Rs.10 to Rs.15,000. The marks and logs are altered, or false marks are affixed; teak is sold before it has come to maturity, and so on. Nevertheless the receipts are increasing. In 1902-3 the Shan States forests brought in Rs. 120,000, the working expenses being only half this, and these figures will increase.

The Government also counts on other resources—coal, or rather lignite, copper, and lead.; on certain abundant natural dyes, and, finally, on the development and improvement of agriculture. Undoubtedly the tribes and States are more prosperous now than they were before the British occupation.

No one, nowadays, ignores the influence of public works on the peace and prosperity of conquered countries. The French have made enormous progress in this respect during the last twenty years, and their policy, especially in Northern and Western Africa, has been admirable. The English had precedents of their own in India that they were bound to follow among the States and tribes of Burma. Almost as soon as they were established there, they started constructing telegraph lines, opening out roads and tracts, and constructing bridges. New and useful roads were opened between the Northern and the Southern Shan States, and from all these into Burma, and everywhere, as these works progressed, it was seen that they were accompanied by a development of traffic.

The administration in Burma has an excellent method of preparing a road programme for each district. This is revised every two or three years, with the object of ensuring continuity of plan. Unhappily these programmes do not often get beyond the paper they are written on. Money is lacking, execution is

postponed, men change, and plans are modified. The programme originally drawn up for the Kachin tracts of the Myitkyina district was a vast one, but it has only been realised in part. Even this part, however, is considerable. The roads opened up have cost, on the average, Rs. 3000 a mile, including bridges. They are, however, only 7 feet wide, and are unmetalled. The land cost nothing. In these tracts, where the *personnel* is so scanty, technical experts are almost entirely lacking, and administrative and political officers have often to play the part of engineers. They make alignments, fix levels, and leave the work to be done by native labour. Most of the bridges are very short—from 13 to 20 feet, but some are more than 600 feet in length. It was originally intended to obtain European engineers for these, but as that would have been too costly, they were entrusted to Burman carpenters under the supervision of native public works officers.

After roads, railways. The Shan States possess one railway, and will soon have two. The one which exists connects the Northern Shan States, through Lashio, with Mandalay. The other is to branch off from the Rangoon-Mandalay line, and to go to Taunggyi, the capital of the Southern Shan States. The principal Kachin centres, Katha, Myitkyina, and Bhamo, are already linked with Rangoon and the outer world by a railway, or by the Irrawaddy.

Artificial irrigation, in which the English have shown themselves past masters in India, has as yet been but rarely applied in these regions. The soil is favourable, and the expense would be moderate, but the people do not yet demand works of this sort. At most, there are a few dozen modest dams across streams. The Government endeavours to get these works under-

taken and paid for by the chiefs, and to encourage them in this it makes remissions of their tributes, a procedure which has been found efficacious. In the Southern Shan States the remissions of tribute thus made come to about Rs. 40,000 a year. The money thus remitted is either spent in the course of the year, or set aside until a sufficient amount is accumulated for some important work, as was the case with the bridge at Hsipaw, which cost Rs. 200,000. Chiefs who will not lend themselves to this policy of public works have to pay the whole of their tribute.

Public works, even on a modest scale, are difficult enterprises in these regions. At the outset, where roads are lacking, all the material has to be transported on the backs of men. What in Europe would be carried by a cart and two horses is here entrusted to a hundred coolies. On the occasion of the occupation of the Chin territory, in 1890-91, the Commissariat requisitioned 30,000 men and the Public Works Department 50,000. They are not very difficult to obtain, as soon as they are assured of good treatment and equitable payment, and they earn, on the average, eight annas a day. The Kachins, again, work sometimes on paid piece jobs, sometimes for remissions of taxation, and furnish as many labourers as are required. They now understand that the future demands regular labour and trade. The days are past when they could come down from their mountains and claim rice, spice, oil, and cattle from the people on the plains. Nowadays roads have opened up retreats previously inaccessible. The police prevent or punish raids; in order to live they must produce and sell; and so they resign themselves to work on the roads. Sometimes, however, the people refuse to work, because they are idle and rich, or idle and without

wants, and the necessary labour must then be obtained from India. This, however, is an exception which is tending to disappear; the law of labour triumphs wherever the fruits of labour are protected.

The finances of the States are on a par with their economic condition. Till yesterday they knew not the meaning of a budget. The chief levied the customary dues, squeezed his subjects, if he could, and put all the proceeds into his own purse. The English have endeavoured to introduce some salutary rules. They have abolished taxation which was vexatious or prejudicial to the creation of wealth. They have allotted the sums raised to useful purposes, and have wisely limited the civil lists of the chiefs. Everywhere, too, they have exacted a tribute amounting, on the average, to from 20 to 30 per cent of the total State revenues, which is at once an outward sign of their sovereignty—and money withdrawn from waste.

The taxes vary according to local circumstances, and are generally of a uniform character. Almost everywhere there are excise duties on liquors; taxes on forest products and minerals; customary *kadaws*, a sort of additional cess, and a *thathameda*, or household tax. This tax is of two descriptions. It may be a tax on a family, whatever the number of houses or huts that it occupies, or on a habitation, whatever the number of families that it shelters. Among the Shans and the Kachins at Bhamo it is a tax on families; among the Chins and Kachins of Myitkyina a tax on habitations. The rate varies according to the prosperity of the country. Among the Kachins it is 2½ rupees per unit to the east of the Irrawaddy, and 5 rupees to the west. Among the Chins it is 2 or 3 rupees.

The English, although very desirous to increase the

revenue generally, have taken, and must take, certain measures which retard this. They forbid, for instance, tolls on roads. They suppress internal customs and transit dues.

The tribute they obtain from the chief is, therefore, not large. For the Southern Shan States the amount was tentatively fixed, in 1887, at Rs. 315,000, but this figure proved excessive, and had to be considerably reduced. In 1897 it was Rs. 205,000. In 1902-3 the Burma Government, discounting the results of the projected line of railway into these States, raised the figures by 20 or 30 per cent, but this proved excessive. The railway has not yet been sanctioned by the Government of India, and the looked-for increased prosperity has consequently not been realised, so that the tribute is heavy and paid with difficulty.<sup>1</sup>

The Northern Shan States, although much fewer in number, are more important. One of them, Manglon, has hitherto paid no tribute, the Government having been deceived by the Sawbwa, who alleged expenses on frontier posts which had never existed. The other four now pay about Rs. 130,000.<sup>1</sup> The nominal tribute, however, is never obtained. There are always some arrears, and, as I have already said, the Government makes large remissions to the chiefs on condition of the money being spent on public works.

As a matter of fact, these States and tribes, for the most part, really cost the Government more than it receives from them. That, however, is not a source of anxiety. The Government spends what it thinks desirable in the Shan States, in the future of which it believes; it looks to time to produce results.

<sup>1</sup> In 1907-8 the Southern Shan States tributes were fixed at Rs. 275,000 and those of the Northern States at Rs. 154,000.

## SECTION VII

*Results and Progress*

It would be difficult to measure the progress of any country after a period of not more than twenty years. The difficulty is greater here, where the English have been far from exerting themselves to the utmost, and have only allotted a small *personnel* and little money to the work of development. Nevertheless, even in this brief period, one sees that there has been a change in the country itself and in its inhabitants. We must, of course, distinguish between places and races, and not compare well peopled and civilised States, like Hsipaw, with the still savage Was.

One main result has been to give the peoples some notion of what the British Government is. For years they were quite ignorant even of its power. The chief of the State of Wuntho, when he saw that there was trouble in the State of Momeit, thought that this was his opportunity. He accordingly raised his people in revolt, and was dethroned. The people of the Chin hills had to deal with two military columns, one from Burma and the other from the Bengal side. They imagined these to be two tribes, which were for the moment allied against them, but they thought that this alliance, evidently a temporary one, need not disturb them, and did not believe in the possibility of a permanent occupation. For centuries they had lived by raiding Burma villages, despising the power which has never been able to subdue them, and the newcomers, they thought, would not do more. To-day they must think otherwise.

From the beginning, too, they have shown no racial or religious hatred to the British, or their Indian subjects. They mixed freely with the sepoys, and showed that they would not be absolutely refractory to the action of a good Government. They have now become less distrustful and suspicious. They recognise that by the English occupation they have gained in security and trade facilities. That, too, is the sentiment of the Shans and Kachins. The mule tracks, the bridges, and especially the great steel structures which clear the great affluents of the Irrawaddy in a single span, astonish and awe them. Those who visit, or live near, the plains, take account of the order that reigns there, and of the growing wealth. They abandon their costume for that of the Burmans, and change cotton stuffs for silk. They become cognisant of new obligations and duties, and they come, of their own accord, to pay their tribute. The people in the more remote hills have not yet reached this stage. Their mind has not yet been opened, nor their temper softened; they wait for the authorities to come to them, and that is done by the civil officer, who travels through their villages for days together.

They see, moreover, newcomers establishing themselves on their territory, men from beyond the frontier who have come to obtain the protection of a regular government. They notice that these men have often abandoned lands of greater fertility, and thus realise that security for labour and profit is more precious than fertility of soil. What they cannot yet comprehend is the fact that their kinsmen, who have remained outside British rule, in China or elsewhere, are still exempt from its order and discipline, and that they can still attack and raid in their old manner. But recent

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experience affords them encouraging comparisons with the lot of these tribes. They submit, work, pay their taxes, and, as in the moral tales, live happily and have many children. That is a conclusion which the British can legitimately place to their credit.



## CHAPTER III

### LANDED PROPERTY AND THE AGRICULTURAL CLASS

DURING the last half-century the Government of India has witnessed the gradual development of a disquieting phenomenon on its political horizon. Fractions of the native population, important both as to numbers and social position, are being entirely despoiled of lands which they had long owned, or reduced to occupy them under uncertain and onerous conditions. They are threatened in their traditional rights by new classes whose prosperity and importance dates from the last forty or fifty years, and are due to economic and social transformations which have accompanied the progress and development of British administration in India. The Government, which for long shut its eyes to the evil, has been forced to open them. It now understands the gravity of the situation, and has been endeavouring, for the last thirty years, to remedy it.

I shall try to set forth this evil, and the attempted remedies, as briefly and accurately as possible. I must point out, however, that India is a country so vast and so heterogeneous, that any attempt to describe its phenomena and institutions in a few words is doomed to failure—on the score of brevity, imperfect generalisation, vagueness, or inexactitude. The reader must

that what may be true of one province, or one district, need not apply to another.

## SECTION I

*fferent types of Villages—Property in Land—Its treatment under British Rule—Money-lenders and their operations—Landlords and Tenants.*

A person who traverses India—not the breathless jurist, for whom express trains seem too slow, but a man comes to study, and accompanies British Collectors on their tours—will find in a single province, as, for instance, in Bengal, two distinct forms of rural organisation.

In Eastern Bengal there are vast landed estates, people dwelling in scattered homesteads. In Bihar, on the other hand, there are villages of peasant proprietors. France itself, as is well known, offers some striking contrasts.

The typical Indian village is a petty commonwealth, the greater part of whose inhabitants are agriculturists, which also contains traders and artisans, and officers and servants of the village. Around the village proper, which, in some cases, has also dependent hamlets, are the cultivated lands. There is a common village pond or tank, a burial or burning grounds, a temple, perhaps some well-known tree (or rock) fetish, a grazing ground for cattle, and often a piece of jungle, from which the people get their firewood. The total extent of the village lands has been demarcated and measured, so that each village knows exactly what belongs to it.<sup>1</sup>

<sup>1</sup> The total average area of a village varies in different provinces. In the Central Provinces it is 1300 acres. In the United Provinces, where the population is denser, and the cultivation closer, it is about 600 acres.

These villages fall under two main classes. In the one, which may be styled the ryotwari village, each cultivator has his own individual field, or fields, which he has inherited, bought, or cleared. He cultivates them at his will, subject only to the payment of land revenue to the State, or, occasionally, to the disbursement of rent to a superior landlord. The villages have a common right to the village pasture, or jungle; but outside that their interests are quite separate, and the occupiers of such villages are, as a rule, petty peasant proprietors. A village of this sort, which is probably of the most ancient type, owes its original existence to settlement by some tribe or clan which already possessed a leader, or by some body of associates whom circumstances had led to choose one. This leader becomes the headman of the village, and when the latter comes into contact with that larger organisation which we call the State, the State will generally find it advantageous to recognise the headman, to take him into its service as an intermediary between itself and the villages, and to render his position hereditary.

The second type of village outwardly resembles the first; but if you inquire into the mutual relations of the inhabitants you will find that they are different. There is no longer a body of cultivators each of whom has his own independent rights: some of the villagers claim the ownership not merely of the fields they cultivate, but of the whole of the village lands. As a rule, these claims descend from some common ancestor, who acquired his rights by gift from a prince, by development from the position of a farmer of revenue, or by usurpation in troublous times. The remaining cultivators are only tenants, and pay rents for the lands they occupy.

Of these tenants some are recognised as an integral part of the village and are vested by custom, and, nowadays, also by legal and documentary sanction, with permanent rights in their holdings. Others, a more recent and fluctuating element, are more in the position of tenants at will. The equal rights given to sons by the Hindu family system have often led to minute subdivision of interests between the village proprietors; but they nevertheless remain a joint community, and their villages are styled joint, or landlord, villages, as opposed to the ryotwari villages above described. The joint villages thus described did not possess a recognised headman: their affairs were administered by *panchayats*, or small councils, consisting of five or more of the joint proprietors. Latterly the British Government has found it necessary to institute a species of headman for these villages also, but such men are merely representatives of the joint proprietors in their dealings with the Government, and their name, *lam-bardar*, is derived from the English word number.

The ryotwari village is the prevalent form in Madras, Bombay, and Burma; and the joint village in the United Provinces, the Punjab, and the Frontier Province. But even here British administration and British laws have worked in favour of individualism, and the old ties which bound the village proprietors together are being gradually dissolved.

It would be out of place here to investigate the history of these types of villages, or to enunciate theories, which would at best be disputable, on the origin and forms of property in India. But the general character of the proprietary rights which now exist in land merits some examination, since, as we shall see, this is a matter which is still of much practical importance.

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Old documents, such as the laws of Manu, lead to the conclusion that ancient India recognised individual property even in joint villages. Primogeniture was recognised only amongst the princes, and not even among all of these, as the English discovered in Kathiawar. Partition on the basis of equal shares was bound to develop individual rights, but had such rights the full extent given them to-day? In the earliest times of which we know, peasant proprietors, whether in ryotwari or in joint villages, appear to have been able to carry on exchanges and sales among themselves, or even with outsiders; and, if the old texts have not led the commentators into error, we find at the time of the Code of Manu, and even previously, the same main factors as exist in the agricultural life of to-day—in one part landlords having under them tenants with varying rights; in another ryots who are recognised as owners of their lands on condition of contributing a share of the produce to the State. But in the subsequent ages of the Muhammadan conquest and disintegration, Musalman lawyers, and some of their English commentators who followed them, set forth a different theory. According to these, all property in the land remained vested in the State, and the actual landholder had merely the right to occupy, cultivate, and draw from the land what he required for the support of himself and his family.

In point of fact, the actual development appears to have been as follows :—

(1) From the earliest times that we know of, the State took (in kind) a share of the produce which, according to the laws of Manu, might vary from one-twelfth to one-fourth.

courtiers, to those who had rendered them service, or for religious purposes, took the shape of the whole, or a portion, of the State share of the produce in one or more villages.

(3) When the State was in want of money, the king leased out the right of collection of State dues.

(4) In periods of conquest, such as those which marked the establishment of the first Musalman kingdoms, there was large alienation of the State's claim in respect of the produce of the land, which would be freely given to the Captains of the successful invasion, or, it may be, taken by themselves in the period of local anarchy which always accompanies the setting up of a new *raj*.

(5) The more anarchic the time, or the more pressed the State for money, the greater would be the amount exacted from the cultivators by the State, or its grantees or intermediaries, till at last these would be left only with the bare means of subsistence.

(6) This state of things was prevalent in India before the Mughal conquest. The greatest Mughal Emperor, Akhbar, lightened the State share of the produce, and converted this, generally, into money payments, thus making the State the recipient of a fixed due instead of an actual partner in the proceeds of the harvest.

(7) With the break-up of the Mughal Empire after Aurangzeb, the old vicious cycle began again, with the barter of State rights to contractors, or to grantees who could cozen or coerce the weak Emperors, constant raising of the assessments, and the violent transfers of property which took place in the general anarchy that prevailed before the British conquest.

(8) The situation the British found was that the

rule, to retain more than a "living wage," the rest being swept into the coffers of the State, and of its legitimate or illegitimate representatives. Occasionally even this living wage was confiscated, the whole harvest being seized; and the "strong man armed" did not hesitate to evict his weaker neighbours. Looking at the history of India as it thus presented itself to land it was not surprising that some British officials, when they came to the conclusion that the occupier should have no right save what the State chose of the land to give him.

As above indicated, the Mughal Emperors and their actual or nominal lieutenants had found it inconvenient to deal direct with all occupiers of land. The hereditary Rajas and Nawabs, whose rights were not to be contested, and persons who had obtained grants for services rendered to the sovereign. Vast estates had their own subfeudatories, or *talukdars*, but the State did not concern itself with the *talukdar* or tenant: it looked for its dues to the proprietor in chief. Such an intermediary was very convenient, and in places where great estates did not exist, the Native Governments established contractors, who were made responsible for the realisation of revenue from the peasants, and received, as a reward, about 10 per cent of the amount they raised. As such a position was lucrative, there were many candidates for it, and, as usual in the East, the revenue contractors endeavoured to make their position hereditary, and often succeeded in doing so.

Such was the state of affairs in Bengal when the British assumed charge of the administration in 1765. They were eager to increase their revenues, and distrustful of the contractors: but they



immediate change. Sometimes they maintained the old contractors; in other places they sought out new ones on short terms of contract. Things went on thus in an unsatisfactory way till 1786: there were constant punishments for fraud, and frequent changes in the incidence of the land revenue. Finally, the Directors of the East India Company, weary of all these troubles, instructed their new Governor-General, Lord Cornwallis, to place the land revenue on a more stable footing, and this he endeavoured to do by the famous Permanent Settlement of 1793, which fixed the Government dues in perpetuity.

Before sanctioning this settlement, Lord Cornwallis had ordered an inquiry, which lasted three years, into the various rights of the interested parties. This was a difficult and delicate task. The British officials, then few in number, were imperfectly acquainted with the language of the country: they had only a superficial knowledge of its institutions and customs, and what they saw on the surface was well calculated to lead them into error. All the Rajas, whether of old or recent origin, all the revenue contractors, whether hereditary functionaries dating from the Mughal epoch, or new men who had recently come into being, styled themselves, some with good reason, but for the most part illegitimately, Zamindars. Zamindar means a *landholder*, but in presence of the facts, as they appeared to them, the British translated this into *landlord*. Bengal, at first sight, appeared to them a country of vast domains, with the proprietors at the top, and the tenants at the bottom. Now the British officers of that period, or, at any rate, a great part of them, belonged to the English landed gentry. The only land system they knew was that of England—with the land owned

by a class who lived on and by it, and who had above them the State, or some public body which had a right to levy taxes, or rates, and, below them, a mass of cultivating farmers and labourers. They could not realise that the Bengal Zamindars, who seemed to them to be proprietors, were not really such, that the ultimate proprietor was the State, and that most of the so-called Zamindars were mere State agents. They trusted to appearances, and gave the Zamindar full right to possess the land, subject merely to the payment of a fixed tax. As for the actual cultivators, these were treated as if they had always been tenants of men who had often risen from among them, and who had no rights over them beyond the realisation of their payments to the Government. Nor did the British think it necessary at this period to enter into any detailed relations between the tenants and the new proprietors: they left these to the economic law of supply and demand, and to the common law of contract. Such was the system introduced into Bengal, and into portions of Assam, the United Provinces, and Madras.

Elsewhere the method adopted was generally different. Greater experience, and the fact that the cultivators had not been so ground down as in Bengal, led to the avoidance of the error made there. The State renounced its rights of property, but handed them over, as a rule, to the actual cultivators, subject to the payment to the Government of land revenue. The land revenue, too, was not permanently fixed. The system applied was one of temporary settlement, under which the Government dues were periodically reassessed. This system is not incompatible with the existence of great landlords, as, for instance, the Talukdars of Oudh, but, in general, the settlements are made with small

men—with the individual occupiers of ryotwari villages, or with the joint village communities of Northern India. In the Central Provinces, however, where the system is that of temporary settlements, *Malguzars*, who were originally mere revenue contractors, were, as in Bengal, raised to the rank of landlords.

Thus in the course of a century the original theory that all land belonged to the State had been swept away in practice. The Government had everywhere recognised landed proprietors, whether Zamindars,<sup>1</sup> Malguzars, village communities, or individual ryots, subject merely to two conditions, viz. that they should pay a portion of their receipts to the State, in the shape of land revenue, and that if they did not pay this punctually they should be evicted.

Nevertheless, in spite of all these cessions of its rights of proprietorship, the British Government still styles itself the universal landlord, and in that capacity exercises the following rights :—

(1) Except within estates held on Zamindari tenure, it owns all waste and unoccupied land. Nowadays, if, by irrigation works, or otherwise, it makes such lands fertile and productive, it is at liberty (and it exercises the power) to give to the cultivators whom it establishes there a mere occupancy right instead of full ownership. This is what has been done, for instance, in the Chenab and Jamrao colonies, in the Punjab and Sind.

(2) It maintains the first claim upon all land which pays land revenue, and its dues take precedence of those of any other creditor.

<sup>1</sup> In Bengal the Zamindar is usually a great landowner, but that is not so universally. In the Punjab, for instance, a Zamindar may have a very petty

(3) It considers itself under a moral obligation to supervise and protect agriculture, and to deal with all matters connected therewith, such as famine and the methods of combating it, the relations between landlords and tenants, and its own relations with peasant proprietors. Outside the permanently settled estates of Bengal and some of the adjoining tracts, it also, at periodic intervals of thirty years or so, reassesses the land revenue in the direction of enhancement or abatement, while, if circumstances seem to require this, it grants suspensions or remissions of revenue from year to year.

When we consider the powers which these various rights still leave with the Government, we recognise that the rights of property which the British made over to Zamindars, or ryots, did not necessarily involve any very profound transformation, and the consequences would have been relatively slight if the British had stopped here. But two sets of circumstances which arose, the one rapidly and the other later on, have attracted their attention, and obliged them to scrutinise, and subsequently to modify, their original legislation.

All the "proprietors," of whatever class, recognised by the British would, under the old Muhammadan theory, have received a very imperfect proprietary right. The State would have kept the residue, and would have prevented them from alienating their lands, as it has now commenced to do. At the outset, however, no such condition was imposed, and the proprietors were allowed a free hand in the disposal of their property. This was conceded in all the provinces, and to all classes of proprietors, and the Government not only saw no evil consequences in this, but plumed itself on having bestowed an inestimable boon on its native subjects. Unfortunately, it was but imperfectly acquainted with

the peoples with which it had to deal. The Indians, whether large or small proprietors, are improvident, and have to bear heavy, and sometimes crushing, charges. There are the ritual obligations attendant on births, marriages, and funerals, the obligation to discharge ancestral debts, losses by drought and famine, and, finally, a rigid system of taxation. The taxation of the land, or land revenue, as it is called, has, until the last few years, lacked elasticity. It was not a percentage on the actual produce, which would vary according to the character of the season, but was commuted into a fixed sum, payable every year, at certain fixed periods, whether the land had yielded or not.<sup>1</sup> Accordingly, the Indian cultivator, whether Musalman or Hindu, is perfectly certain of having heavy charges to meet, and is by no means sure that his receipts will always be adequate. Nor does it occur to him to put by in good years, in order to meet lean ones. Economy of this sort is an exception in a country where prosperity is so uncertain, and where force or fraud had for long endangered savings. The bulk of the people live from hand to mouth, and when bad times come they address themselves to the money-lenders. The money-lender is a well-known figure in every Indian village. In this chapter I shall have occasion to dwell chiefly on the harm that he does, but it must be admitted that he also does a great deal of good: his services as a local purveyor of credit are indeed indispensable. The village money-lender is ordinarily a dealer in produce. He sells grain, sugar, condiments, and spices; and he buys sugar-cane, wheat, rice, and millet. He is supposed to

<sup>1</sup> A large loss of crop might, however, bring about a suspension or total remission of the land revenue demand, and this system has been more liberally applied of late years.

keep a current account with each of his clients. In the course of the year he gives them, as they require it, the food and the material that they need in order to live and cultivate their land, and he advances the money they want for the payment of rent and land revenue. When the harvest comes, he takes the produce, and then strikes a balance, which naturally always inclines in his own favour. In old times, when the peasant could not alienate his land, the money-lender took care that the balance was not too heavily weighted, for his only guarantee was the future harvest, and it would not have done to burden the peasants so much that they would cease to cultivate.<sup>1</sup> But from the day on which the British Government converted occupants into full proprietors things altered. The agricultural debtor had now two securities to offer, his harvest and his land. At the outset this fact produced little change. A cadastral survey had not been set on foot, and titles were still uncertain. The courts, whether British or Indian, were against the money-lenders. Agriculture was in a rudimentary state; communications were bad, and grain difficult to market, so that the land had but little value. But presently matters developed. A cadastral survey defined individual rights. Agriculture profited by science. Improved communications expanded trade and raised prices, and, finally, a strict system of law and procedure afforded the money-lender the means of rapidly realising his dues.

At the same time two new classes were growing in

<sup>1</sup> It is perhaps going too far to state that in pre-British times the peasant had no power to alienate his land. The State, or its representatives, dealt mostly with villages as a whole, and did not trouble themselves much as to changes in individual holdings so long as the total cultivation was not diminished. Custom, however, was against any but exceptional sales, and cultivators were at that time in greater demand than land.

wealth and importance, lawyers and traders. The trader was aggrandised by the opening of railways and trade with other countries. A new judicial organisation, the establishment of regular tribunals, the promulgation of codes of procedure, and the establishment of an elaborate jurisprudence, required the constant intervention of lawyers, from the humble *vakil*, who will take up a suit for 5 rupees, to the High Court pleader, who will demand Rs. 10,000.

Traders and lawyers amassed fortunes, and had to employ their superfluous capital mainly in the land. At this period (about 1870) there was little in the way of organised internal industrial enterprises, while Government securities offered a very scanty market. Land, moreover, gives to its possessor special social prestige, which the trader and the lawyer ardently desire. The money-lender appreciated the new situation, and became the ally of those who wanted to acquire the land which had been pledged to him. Hitherto he had not thought of making use of this security, but the altered circumstances opened his eyes, and he started proceedings for the expropriation of his debtors. At first only a few acres were thus sold here and there, but presently thousands and tens of thousands of acres began to change hands.

So long ago as the beginning of the nineteenth century the professional classes (Babus) of Bengal had offered loans on high terms to the landholders of Orissa, and had subsequently taken possession of their estates. Fifty years afterwards this example was followed in the United Provinces. Between 1860 and 1875 the ryots of the Bombay Deccan suffered, and between 1870 and 1900 an attack was made on the yeomen of the Punjab. Thus the landed classes

began to be successively evicted in almost all provinces. Credit multiplied its offers: every landed proprietor found a money-lender, and promptly got into debt, which menaced him with expropriation. To-day it is estimated that two-fifths of the landholders, great and small, are indebted, on the average, to double the rent value of their lands. Nor were the landowners the only persons to suffer. Tenants had been left without adequate protection against their landlords. In Bengal the Permanent Settlement of 1793 had no doubt purported to preserve the rights of the tenants, but it had failed to define these. Lord Cornwallis had ordered the proprietors to prepare statements, which were to be approved by British officers, showing the extent and rental of their tenancies and other particulars, but the landlords had evaded these instructions, and raised rents at their discretion.

The Permanent Settlement had fixed in perpetuity the amount which each landlord had to pay to the Government. At the outset this sum was intended to represent about 90 per cent of what he obtained from the cultivators. In the course of the following century, however, there were immense clearances of waste land; more profitable methods of cultivation were introduced; a denser population worked harder; railways were opened; the development of an export trade stimulated enterprise; prices increased enormously—with the result that the profits of agriculture rose to an entirely unforeseen extent. The Government, bound by the Permanent Settlement, could not share in this rise: the bulk of it fell to the Zamindars, who, in spite of what was originally contemplated, had reserved to themselves a free hand in the raising of rents. In the old days the Government, as above stated, got about



90 per cent of the net profits of the soil: it now gets about 25 per cent only. We can thus imagine the struggles that developed between the Zamindars and the tenants over these enormous profits. The Zamindar asks for more than the peasant thinks he should get, and the latter thereupon refuses to cultivate. At the outset, the British Government, habitually in want of money, and menaced by the non-payment of its dues, usually sided with the Zamindar. But later on the cries of the tenants were heard, and during the last half-century various laws for the better protection of the tenants have been enacted for Bengal, and for other provinces also. The best known and the most representative of these is the Bengal Act of 1885.

Speaking generally, it may be said that the Indian tenant receives harsh treatment from his landlord. But the most unsympathetic landlord is the *parvenu*. The old hereditary Zamindar was connected with his people, and understood by them. But the new men, the traders and lawyers from the towns, who have entered into possession of land, are not so understood. The tenants regard them as being of a different class, perhaps even of a different race, and are entirely out of sympathy with their ideas and methods of economy. The newcomers, too, are not more interested in agriculture than they are in the agriculturists. What they want is profit: they rack-rent their tenants, and are execrated by them. Nor does the Government love them any better than the tenants do. They are its own creation, but it repudiates them, for they are breaking up the social order on which its policy rests. It prefers the old landlords, who are easy to manage, who rendered (many of them) generous assistance in the troubles of 1857, and who long furnished recruits for its armies.

It regrets having injured them by imprudent legislation, and it is now endeavouring to assist and rescue them.

Any one who wishes to comprehend the slow and obscure work of disorganisation brought about in India by the application of Western notions of property, and the patient efforts towards reconstruction made by Anglo-Indian agrarian legislation, should study :

(1) The special "succession" laws — those passed, for instance, in the United Provinces and Madras, for the purpose of rendering large estates impartible, *i.e.* withdrawing them from the divisions to which they would be liable under the ordinary Hindu law of succession, and which bring about the impoverishment and gradual disappearance of a landed aristocracy.

(2) Laws passed, for the benefit of the landed aristocracy and gentry, in order to procure a better administration of estates. Thus every large province, except Burma, has its Court of Wards Act, which provides for the administration by Government agency of estates the possessor of which is disqualified by age, sex, or personal incapacity. The result of such administration is usually to clear off debts which have accrued, and to restore the estate to its owner on a sound, financial basis. These arrangements have been buttressed by special Encumbered Estates Acts, such as those of Sind and Bundelkhand, which enable special measures to be taken for the relief of estates burdened with debt.

(3) Such laws as the Deccan Agriculturists Relief Act of 1879, passed for the benefit of encumbered peasant proprietors, with the object of providing special tribunals for the settlement of claims against them, and of dealing in an equitable manner with usurious accounts.

(4) The tenancy laws above referred to, which have for their main object the granting of occupancy right to tenants of long standing, and the restriction of undue enhancement of rents.

(5) Finally, the Punjab Land Alienation Act of 1900, which restricts the sale of land by agriculturists to non-agriculturists, and (with some local enactments that it has inspired) marks the last stage hitherto reached in this process of evolution.

In the section which follows I shall deal with this last-mentioned legislation, as being the most recent, and at the same time the most characteristic, indication of the present policy of the British Government.

## SECTION II

### *The Punjab—The British Land Revenue System and its Consequences—Circumstances which led to the Legislation of 1900—Its Character.*

The province of the Punjab has a peculiar character. It is the meeting-place of rival populations, Muhammadans and Hindus, and may be said to have transformed its peoples. The Sikhs, for instance, who are only a minority there, but who were the conquering and ruling race when the British arrived, are by origin Hindu, but how different from the rest of India! Through mixture, perhaps, with more energetic races, and certainly owing to the influence of a stimulating climate, they have developed remarkable qualities of energy and endurance; and other races, like the Jats, are not inferior to them. They were fashioned under the hard yoke of princes such as Ranjit Singh, who succeeded the Mughals. They had experienced intoler-

able oppression by the State, but this oppression moulded them into a discipline to which the other peoples of India have always been strangers. The English found this out during their subjection of the Punjab (1845-9), and the very resistance they then encountered taught them to appreciate their new subjects, and inspired them to govern them well and gain their esteem.

The Sikh State behaved as though it were the sole proprietor of the land, and took to itself almost the whole of the net profits of agriculture. The British gave the lands back to the people, and fixed their taxation at a reasonable level. The first British administrators of the Punjab were chosen by Lord Dalhousie, with a favouritism which amounted to supreme foresight, from among the best officers in India. The Punjab fascinated them; they fell in love with the country; they desired it to prosper; they endeavoured, headed by men like John and Henry Lawrence, Edwardes, and Nicholson, to make of it a land of progress; and to-day the Punjab boasts that it is the province most open to new and progressive ideas.<sup>1</sup>

The Punjab is essentially a rural democracy. Though it contains great landlords, these are less numerous than in some other provinces, consequently there are fewer tenants, and less disputes in regard to rents. About 75 per cent of the peasant cultivators own the lands they till, subject only to the payment of the Government land revenue; and they are not, like the ryots of Madras and Bombay, isolated individualists. Each

<sup>1</sup> That claim might, however, be contested by more than one of India's provinces, and especially by Madras. (See on this point my chapter on "Education," and Mr. Sidney Low's *Vision of India*.)

is a member of a village community, bound by ties of blood and interest, and accustomed to concerted action and reciprocal assistance. They are, moreover, brave men, among whom the Government of India, mindful of the Mutiny of 1857, and of the loyal attitude of the Punjab at that time, loves to recruit its soldiers.

How could such a population, hard-working and energetic, and administered by enlightened and devoted men, come to fall into the hands of the usurers, and be brought to the brink of ruin? At first sight this seems inexplicable. Men like the Lawrences knew how to handle these simple peoples. They took care not to load them with the details of Western administration. The laws and courts which they gave them after the conquest were models of simplicity—no complicated procedure; no heavy expense; no lawyers. St. Louis dispensing justice under the oak of Vincennes might have been their model. Unfortunately, however, John Lawrence, who was later to deserve the title of Saviour of India, was, primarily, a land revenue officer. Almost as soon as he came into power in the Punjab he started (too soon and too hurriedly) a cadastral survey for the purpose of assessing the land revenue, and thus cleared the way for the great Survey and Settlement services, which were, for the next twenty years, to delimit and measure the fields of even the smallest proprietors, and fix the Government assessment thereon. Unfortunately, too, the British administration of that day gave the term land revenue a different signification from that in which it had hitherto been employed. It no doubt placed the State demand very low—so low, indeed, that capable men have attributed to this the excessive value of land in the province, and the large increase of population—but, as elsewhere, it substituted a fixed tax for

a share in the produce. The State no longer claimed a portion of the actual profit of the cultivator: it demanded a fixed sum, which, though calculated on average conditions, was quite irrespective of the character of the harvest. The tax, I repeat, was much less than what had been levied by former Governments; it was very moderate at the outset, and was, later on, reduced still further. But, at this time at any rate, it was of a rigid character, and there is nothing that the Indian peasant hates more, except the unscrupulous spoliations which took place under Sikh rule. As in other parts of India, the Punjab agriculturist was careless and thriftless, and was obliged to have constant recourse to the good offices of the money-lender. Here, too, the money-lender was originally satisfied with the security of the harvest, and was quite willing to grant delays to a debtor, so long as the latter did not dispute his claims. Now, however, another creditor comes into the field—the State, and its representatives allow no postponement, but demand their dues as they accrue. The cultivator, always at a loss for money, goes once more to the money-lender. The latter, however, now appreciates not only the increase of his loans, but the existence of a rival creditor whose claims take precedence of his own. That disquiets him, and leads him to change his attitude; he begins to take precautions which he formerly dispensed with.

An Act passed in 1860 opened the money-lender's eyes further. This reduced the period of limitation, within which debts can be claimed, from twelve years to three, unless the claim had been registered, in which case the period was six years. Registration was a new device of the British and their tribunals, of which the money-lender had hitherto been ignorant; hereafter he

will register. But to register, and to go into Court, are steps which the money-lender cannot take alone; he must go to a pleader, and lo! the first breach in the simple procedure of the Lawrence epoch. Presently the grain dealer develops from a casual into a professional money-lender, who soon becomes an expert in tricks and traps; and the alliance of the pleader and the money-lender (*bania*) has far-reaching consequences for landowners, large or small.

Then, about 1866, a Chief Court was constituted for the province. A regular code of civil procedure was applied, and a chain of local courts was established which proceeded to a strict application of the letter of the law, as opposed to equity, in which task they were aided and guided by the Chief Court. These new judges do not share the local feeling which gave preference to a landowner in a dispute with a money-lender. They are firm, even as regards great landlords, and are prone to give judgments against parties who often do not take the trouble to defend themselves. Finally, professional lawyers of all sorts are admitted to practise before these tribunals.

About 1870 the original settlements and surveys were complete. The assessments of land revenue had been definitely fixed for periods which might extend to thirty years, and the land acquired a constantly increasing value.<sup>1</sup> Records of rights which show the various claims to land, had been made out, and facilitated transfers. The cultivators who now under-

<sup>1</sup> About 1870 unirrigated land had practically no sale value. In 1897-8 it sold for Rs. 58 an acre. In the Chenab irrigation colony, again, the average sale value of land rose from Rs. 43 an acre in 1892 to Rs. 110 in 1900, while at Lyallpur, the headquarters of the colony, it ran up to Rs. 134. This increase in values is due to improved communications, a growing population, and a land revenue so moderate that the capitalists were tempted to invest in land.

stood the value of land, began to compete for it, and thus raised prices. Henceforth the *bania* (money-lender) will have a fine time!

Nevertheless, the land system of the Punjab might have led to the belief that the intervention of the *bania* would not bring about very evil consequences. The Punjab peasant belonged to a joint village. He was one of a group of co-partners, and could not alienate without the consent of his partners: consequently he could only lose his harvest and the rent would remain. That, at least, was the conclusion which seemed correct, according to theory and logic. But the English courts decided otherwise. For them the joint village was a novel, and little understood, institution. Since each co-proprietor cultivated his own piece of land, was he not the full proprietor thereof? It is true that they were collectively responsible for the Government land revenue, but this responsibility was in practice allowed to lapse. The British revenue officers, finding it troublesome and unfair to good cultivators, had, while maintaining the village community in name, advanced towards individual assessments. The co-proprietors were thus treated in practice as individual proprietors, with full rights, including that of alienating their shares in the village lands. This method of treatment, which was soon confirmed by legal decisions, handed the peasant over to the tender mercies of the usurer.

From 1870 onwards clear-sighted officers recognised that the rigid land revenue system, and the strict interpretation of contracts by the courts, were reducing the villages to a state bordering on poverty. They drew up valuable reports on this subject, but the Government did not give attention to them. Loans, and suits for their recovery, grew to such an extent that, about



1874-5, it was necessary to constitute special courts to deal with these matters. This, however, merely led to the more prompt issue of processes and judgments: it did nothing to remedy the evil and the circumstances which had caused it. The judges were townsmen, sons of traders, or officials who were entirely out of sympathy with the agricultural classes and with the dangers which menaced these. They were, moreover, bound to apply the strict letter of the law in the matter of contracts and evidence. The indebtedness of the peasants increased, not merely in the Punjab, but throughout India, and in 1880 Sir James Caird, who had a high reputation as an agricultural expert, estimated that while one-third of the landholders of India were in debt, with a prospect of recovery, another third were hopelessly involved.

The evil increased from year to year. Complaints became more lively, and warnings more emphatic, but neither the Government of the Punjab nor the Government of India appeared to pay attention to them, although they ought to have recollected the pernicious consequences which had resulted in the neighbouring province (the United Provinces) from the wholesale eviction of hereditary landholders between 1850 and 1857.

In 1886 a Punjab official, Mr. Thorburn, who was thoroughly acquainted with the province and its people, once more drew attention to the growing peril, and finally, in 1894, he was authorised to conduct a special inquiry. This inquiry showed that in one of the areas in which it had been conducted 20 per cent of the cultivated land had been sold or mortgaged, while in another tract the figure was 28 per cent. Another report, which applied to the whole province, showed

that between 1892 and 1896 105,000 acres had been sold—half of them to money-lenders—and 316,000 acres mortgaged. In the year 1899-1900 the sales of land from agriculturists to non-agriculturists amounted to 119,000 acres, and the mortgages to 290,000 acres. In the twenty years between 1880 and 1900, 500,000 acres had been mortgaged in the single division of Delhi, and half these mortgages had taken place during the last five years of that period.

The *banias* had freely applied the method of “conditional sale,” to accelerate the ruin of their clients. Under a contract of “conditional sale,” land which has been mortgaged becomes the property of the mortgagee if, within a fixed period, the owner has not paid back, with interest, the loan for which the land was hypothecated. In 1896-7 some 12,000 acres of land had been seized under this method, and in 1897-8 about 8000 acres.

Such were the facts reported to the Local Government and the Government of India; but it took them some time to appreciate the full gravity of the situation. Nor was that unnatural. What are even thousands of acres in a province in which landlords own vast estates, and which includes between two and three million peasant proprietors? But this reasoning could not hold good against the growing irritation of those who were being driven out of their hereditary lands. Here is one example, out of hundreds, which exasperated public opinion. In 1885 a landlord had mortgaged an estate of 7500 acres for a loan of Rs. 62,000. The contract provided that the net produce of the estate should be taken against the interest on the first 40,000 rupees, and that 12 per cent per annum should be paid on the balance. As the estate was worth at least Rs. 12,500 a

year, such a contract shows the simplicity and ignorance of the borrower and the inordinate greed of the lender. The contract went on until 1898, when the money-lender sued the debtor for Rs. 400,000, and demanded, in default of payment, to be put into full possession of the estate under the "conditional sale" clause. He failed because public opinion had been stirred, the Government was uneasy, and the courts were on the alert. But in the course of years, hundreds of contracts, as extortionate, had been brought before the courts, and enforced by them without objection. The *banias* won their cases, and the landlords lost their property. The disgusted peasant began to say : This is the reign of the money-lender. All that is necessary is a loan contract, a landholder, and a decree !

As in other provinces, the Bombay Deccan, for instance, this economic situation caused troubles, and even agrarian crises, in the Punjab. The debtors who had been expropriated, or were threatened with this fate, were becoming an army, and became cognisant of their strength. Incapable of resisting the law, they set about revenging themselves upon those whom it had favoured. The houses of *banias* were broken into, their books burnt, and they themselves occasionally ill-treated ; and public opinion sympathised with such acts. Musalmans, Jats, and Sikhs all had a common grievance, and religious feelings were affronted by the expropriation of high caste Hindus and their reduction to the status of labourers. "Why," it was asked, "are the English so careful to prevent their own countrymen from obtaining possession of the land, when they allow it to pass into the hands of classes which have no traditional connection with it? Do they forget what they owe to the agriculturists of the Punjab, who are

such good soldiers, as well as laborious cultivators? Do they not remember the war loan which they asked for in 1857? Who provided it? Not their favourites of to-day, lawyers, traders, and usurers: these only contributed under compulsion. The only men who paid freely were the great Zamindars. And nowadays they are to be abandoned to the *banias*, who are already oppressive as usurers, and will be still more so as landlords. What is to become of the expropriated landholders? Do the English wish to quench their affection and loyalty? Do they desire to sow the seeds of revolt?"

The Government of India at length yielded to arguments of this sort. It had already come to a decided opinion in 1895; but its decisions are slow, and its attention was occupied by a series of famines which lasted for five or six years. Moreover, the evils of indebtedness were general, and it was necessary to study them throughout India. Finally, however, after full inquiry, it was decided, in 1900, to take action in the Punjab in the direction of preventing sales of land by agriculturists to non-agriculturists. The experience gained in this province would, it was thought, be useful for the rest of India.

The task was, however, difficult. In spite of all that had happened, the authorities were not in agreement as to the necessary remedies, nor even as to the evil to which they were to be applied. That there was a mass of debt, resulting in compulsory expropriations, the ruin of Zamindars, the conversion of lawyers into landlords, and the scandalous enrichment of money-lenders, was beyond doubt. But one class of observers questioned whether this phenomenon really amounted to a social revolution. What were the actual and

relative numbers, and the influence, of the expropriated proprietors? Were whole classes of the population being despoiled of their land, or was this merely true of individuals? Were there actually such cries of despair as had been alleged, and was the situation really such as to be leading to a rebellion? All this, it was urged, was at least doubtful, and if the danger had been exaggerated, was not the proposed remedy too violent? Would not interference with economic laws produce worse evils? And look at the inconsistency! The Government had, against all local precedent, created full rights in individual property, and it was now going to forbid the owner to dispose of his land. The Punjab agriculturist might give his daughter in marriage to a townsman, and yet would be unable to make over any land to his own son-in-law! And what would be the result of such restrictions? Would they not debar progress, and discourage economy and enterprise? What sensible man could put his trust in such a measure?

Granted that something had to be done, let the action taken be in the direction of expedient procedure, and not of revolutionary measures. A close examination would show that the evil arose from the extreme rigour of the *banias*. And when did this commence? With the unfortunate law of 1860, which cut down the period of limitation in regard to debts. Let it be extended. The debtors are groaning under the high rate of interest. Let it be reduced. If it is found that expropriations are multiplying in some parts of the province, or among certain classes of the population, let us apply special remedies to these alone. Do not legislate for the whole province, for Musalmans as well as Hindus, for the districts of the East as well as for those of the West. If you must have legislation, it was

said, let it be local and experimental, but do not, on the threshold of the twentieth century, narrow the land market by laying down who may, and who may not, purchase agricultural land.

It was added that the legislation proposed by the Government of India would excite a crowd of adversaries—not merely the money-lenders, lawyers, and others who were acquiring land, but even those whom it was intended to benefit. These were not in accord among themselves. Some thought the proposed law inadequate, because it did not attempt to cure the wounds of the peasants. Others thought it dangerous, because, by restricting the sales of land, it would diminish land values, and by taking away from the lender the right of sale it would kill agricultural credit, upon which the Punjab cultivator had subsisted from time immemorial. If the present source of credit were cut off he would have to seek another one: and the law would then result in setting aside the existing money-lenders in favour of others who would necessarily arise among the agricultural classes.<sup>1</sup> The big landowners will start business as usurers, and will crush the small ones. If, on the other hand, this does not happen, the cultivators will continue to resort to the old money-lenders, but will have to undergo more rigorous conditions than at present. Unable to sell, they will never succeed in freeing themselves from debt. They will drag a load of mortgage all their days.

These were the sort of objections raised to the Bill of 1900, which was the work, not of the Government of the Punjab, which accepted it reluctantly, but

<sup>1</sup> A large number of money-lenders already, indeed, belong to the agricultural classes. In Madras, for example, a recent examination of 83,000 documents showed that, in the rural districts, four-fifths of the registered debts of ryots were due to other ryots.

of the Government of India, which imposed it. The Government of India replied that it was the Punjab authorities who had first called attention to the distress of the agriculturists, and that it was in accord with them that remedies had been sought. All those formerly suggested had appeared inadequate, and for that reason it was necessary to bring forward this Bill of 1900, restricting alienations of land. No doubt Sir James Lyall, one of the best Lieutenant-Governors of the Punjab, had declared in 1884 that Great Britain would never take away from the natives the proprietary rights which it had conceded to them, whatever use they might make of these. That, however, was a purely negative attitude, which was no longer suitable, and in 1891, under the influence of stubborn facts which would not accommodate themselves to theories, the same Sir James Lyall had suggested judicial measures very like those dictated by the Deccan Agriculturists Relief Act, which, however, as he knew, had only achieved a partial success. In 1895 his successor, Sir Dennis Fitzpatrick, held that the situation had got worse, and proposed to forbid certain castes, or tribes, from alienating their lands without official sanction. Such a proposition involved, of course, restriction of proprietary rights. Further, such a restriction would not be a novelty in the Punjab. Custom confers on certain agnates the right of veto on the alienation of ancestral property, while a law of 1850 forbade the sale of land to persons outside the village. Finally, such sales, even now, required, as a rule, a decree of the Court of Justice, and, occasionally, the approval of the executive authority. Accordingly, the Bill of 1890 only proposed to add more efficacious obstacles to those which had hitherto been evaded, and to substitute a general for a piecemeal

solution of the question. The objectors to the Bill were, moreover, in large part, in opposition to each other. A Judge of the Chief Court held, for instance, that the Bill went too far, and proposed to substitute for an entire prohibition of alienation, forbiddal to alienate for more than a fixed period, say fifteen years. Others, on the contrary, thought that the Bill did not go far enough. Not only would they forbid future alienation of lands to non-agriculturists, but they would impose specially heavy taxation on lands which these had already acquired. As for the bulk of the officials, these thought the Bill thoroughly sound. The Government of India accordingly passed the Bill into law, and it came into effect in June 1901. It forbids non-agriculturists, save with the special approval of the Deputy-Commissioners, to acquire land from agriculturists, and lists of agricultural tribes and castes were drawn up. The object of the law was to place transfers of land under the control of the revenue authorities, and it did away with the old system, by which lawyers and money-lenders profited from the ignorance of the landholders. The Courts, too, extended the scope of the law, by applying its principle to such matters as the occupancy rights of tenants.

This law has not been sufficiently long in force to enable a clear judgment to be passed upon it, and opinion as to its results is still somewhat divided. It seems, however, to have been readily accepted, and but few fraudulent evasions have as yet been brought to light. At the same time, some of the results which were hoped and looked for seem to have accrued. A curtailment of credit induces economy, and there is evidence that the cultivators are reducing their expenses, even those relating to ritual. The Government has



assisted them, through the instrumentality of a law passed in 1904, for the establishment of agricultural credit associations, and some of the large landowners are doing business as local bankers. The *banias*, again, are seeking other means of employing their capital, and are reducing the rate of interest. It would seem, too, that they are now commencing to lend to the landholders under the new conditions, which will not allow them to foreclose on the land. The value of the land does not seem to have been reduced, and sales and mortgages go on as before. The contest for possession seems to have been transferred to the agriculturists themselves, the abler of these enriching themselves at the expense of others. These various indications are, however, not yet sufficiently strong, or certain, to warrant final conclusions.

Such is this famous Act of 1900, on the alienation of land in the Punjab, which still marks the culminating point of agrarian legislation intended to protect hereditary landholders in India. It would be rash to endeavour to foretell the future, and to pronounce to-day on the probable, or even the possible, results of the general legislation in question. Legislation of this character is never final. The evils against which it is directed are not eradicated, and every law passed involves a fresh one later on. That of 1900, for instance, brought in its train legislation on pre-emption, and was followed by the general legislation of 1904 on the subject of co-operative credit societies, and, in 1905-6, by rules for the further promotion of the advances which the Indian Government makes to landholders for the improvement of their land, or for the purchase of seed or cattle in times of scarcity. More generous provision has also been made for the suspen-

sion and remission of the Government land revenue in times of agricultural distress.

But that legislation and action of this character cannot prevent economic change was recognised, in 1892, by a Commission which had been appointed with reference to the Deccan Agriculturists Relief Act, 1879, and which admitted that the measures which it then proposed might retard, but could not prevent, the transfer of land from agriculturists to the capitalist classes. Nevertheless, no one would advise a policy of mere inaction. The English themselves are, doubtless, under no illusion in regard to the permanent results of their innovation. The old territorial nobility has not advanced with the time. It remains idle and prodigal, while the peasant proprietors, burdened by the traditions of many centuries, are improvident and ignorant also. On the other hand, the economic conditions of British India are producing capitalists who seek employment for their wealth. A conflict between them and the old landholders was predestined, and the result was inevitable. Wealth goes to the cleverest, and the land must pass into the hands of new masters, to the great indignation of the agricultural classes, a portion of whom will be reduced to the condition of farm-labourers.

That, however, is but the first stage. Time will pass; the constant development of industry will afford new openings to capital; and the agricultural labourers will come to understand the importance of their rôle. They will raise their demands, and add to their profits, and gradually the land will come back to them. The tenants and the labourers of to-day will produce the owners of subsequent generations. There will be a series of economic revolutions, which must necessarily produce suffering and struggle.

The English are aware that processes of this sort are not to be stayed, but, being an eminently practical people, they endeavour to retard a movement which they cannot stop. They have no illusions as to their successive agrarian laws. At the very moment they prepare these they discount their partial failure, but they calculate on their temporary utility. One day, perhaps, they will have to protect the new proprietors of to-day against the economic attacks of those now dispossessed. They are past masters in irrigation, and they regulate economic and social revolutions as they would dam a stream. The stream, when dammed and trained, becomes a useful instrument of cultivation, and revolutions may be similarly guided into beneficial evolution. What would have been an immediate agent of destruction becomes, in course of time, an element of transformation and progress. That, no doubt, is what the English think of their agrarian legislation, and that is why they pursue and modify it without being discouraged by failure. They work with their time, and time will work for them.

## CHAPTER IV

### LAW

IN the vast field of Indian policy which we are considering, it is in the sphere of law that the English have afforded the highest example of scruple, ingenuity, and tenacity, and it is here that the reader who seeks for practical instruction will find most to learn. Not that the work has been entirely satisfactory, or that colossal errors have not been committed—the British do nothing by halves. But their very errors, and the successive ideas which have influenced them, are lessons in themselves, and I will add that if the criticisms on the law which England has given to India be candidly examined, one is led to ask whether any other nation would have done better, or would even have sought to avoid the mistakes committed.

The work was complex. It implied anxiety to maintain part of what had been combined with a generous desire to introduce part of that which ought to be. Frequent and grave mistakes may have been made in the application of such a combination, but the attempt was, at least, honourable. Men have done what they could; it was for time to do the rest. The law may occasionally have been in advance of the peoples, but, if so, the peoples are marching to overtake the law.

An intelligent person who visits India, and studies the legislature and the law courts, will, further, not fail

to observe the very high place which law and equity hold in the British administration. Not only judges and pleaders, but officials, high and low, British and native, are thoroughly acquainted with the laws under which they have to work, and understand what these require, permit, and forbid. And that is not merely the case in regard to the penal law, but in regard to administrative and fiscal law likewise. Ask them, for example, the meaning of such terms as "dacoit," or "household," and they will answer, not by weaving subtle definitions, but by the literal citation of a section of some Act. All decisions are dominated by the idea of what the law intends, tolerates, or desires to encourage, and outside the law there is no safety. No official thinks of violating it, of evading it or of dispensing with it, and, consequently, there is no room, under any circumstances, for the spirit of French Jacobinism; no temptation to pursue measures of so-called public safety against or outside of the law. I have noticed cases in which enlightend official zeal met with ridiculous legal obstacles. A Frenchman would have leapt over these; the Englishman takes his time. He asks patiently for the intervention of the legislature, which may be slow or rapid, and does not act till he is fortified by the sanction and power of the law.

## SECTION I

### *Personal Law*

The servants of the East India Company, and, later on, of the British Crown, never found themselves in the position of the philosopher who had a *tabula rasa* to work upon, and could legislate freely for the needs of the

future. From the beginning the British in India had to reckon with existing facts, which have constantly reacted on the form and character of their law. At the outset, except in Bombay, they were mere settlers in the territories of native princes, and, logically, would have been subject to the *lex loci*. That, however, was a principle of which the Muhammadan dynasties were ignorant, while their law covered penalties and procedure unacceptable to Western ideas. In short, the English seemed entitled to claim for their factories what international law describes as the privilege of extra-territoriality, and they accordingly resolved, although on foreign territory, to be governed by their own laws. But what were these to be? The reasonable enactments made on the spot by the Governor and the Company, says the Charter of Elizabeth (1601); provided, adds the Charter of James I. (1609)—and here introduces a new element which will later on become of great importance—that these laws shall be reasonable and not opposed to those of England; while a Charter of Charles II. (1661) requires actual conformity with English law. Later on, the Charter of 1726 made the law of England—common as well as statute law—actually applicable in the Presidency towns of Calcutta, Madras, and Bombay, and strictly limited the power of making local rules. Thus, from their first settlement up to the middle of the eighteenth century, the English, although camped on foreign territory, escaped from the law of the country. They had their own law, which they applied not merely to their compatriots, but to the Indians, whether Muhammadans or Hindus (Gentoos, as these were styled) who lived in their neighbourhood, and under their authority.<sup>1</sup>

<sup>1</sup> The term Gentoo is a Portuguese derivative from the Latin *gentilis*.

The unhappy principle of applying to outlying possessions the full law of the mother country was, however, subject to an exception, introduced in the Charter of 1753, which laid down that the Mayors' Courts in the Presidency towns should not take cognisance of matters which entirely concerned the natives, unless these voluntarily submitted to their jurisdiction. This exception, which at the time seemed insignificant and was probably more theoretical than practical, was, later on, to lead to an entire alteration in Anglo-Indian legislation; and I have now to trace how this comes about.

Clive, the true founder of British dominion in India, had changed trading settlements into a territorial dominion, and henceforward the East India Company was more concerned with the cares of government than with mercantile matters. It had to conduct, preserve, and administer an entire people. In a few years these new duties altered the old conceptions. The laws of England lost their character of universality in the eyes of the British administrators, and local laws and customs became a matter for their consideration, not merely on their own merits, but on account of the value that the Indians attached to them. The British had, in fact, begun to appreciate the character, and necessity, of a Native policy. They had defeated their European rivals, the French and the Dutch, but they did not know at this time how complete their victory had been, and they were to be disquieted\*by the dread of French intervention for half a century to come. They also began to realise the immensity of India. The territories which Clive had conquered for them were small compared to those which remained beyond. The great name of the Mughal still inspired respect and awe.

The British were little acquainted with the peoples they had conquered, but realised their multitude. England was far off, and distracted from the affairs of India by her European (and presently by her American) policy, while the Company provoked her jealousy and hatred. She could not be relied on for any great assistance in Asia. The Company's officials in Bengal and Madras thus found themselves in a position of unstable equilibrium. Imprudent conduct, and measures which irritated the conquered peoples, might lead these, peaceable as they were, to overthrow, by their mere mass, a Government which was much more feeble than it seemed to be, and the work of 150 years might thus be undone in an hour. What course, then, was to be pursued? This question was to give birth to, and procure the triumph of, a true Native policy. It was necessary not to make the natives discontented, but at the same time not to weaken the prestige of the European, or to sacrifice the Western morality which he represented. Now Native policy consists in practising the art of respecting the beliefs of others without the appearance of weakness, and of defending one's own ideas without the appearance of brutality.

Those who had become subject to English rule included not merely Rajas and ~~is~~ who might find compensation even in their ~~have~~ its effect an ignorant mass who had not felt the ~~d~~ subtle; and which their masters had fallen. Besides ~~t~~ than the ~~Has~~ an intermediary class, the priests, ~~ears~~ the deoprietors, and officials, whom it was indispe ~~ancest~~ to rally to the British cause. Now these men ~~whi~~ to their religions, their usages, and their ~~privileth~~s, and if they saw these threatened they would, unwarlike as they were, maintain an attitude of passive opposition until the



opportunity came for making such opposition active. It was therefore a wise policy not to attempt to apply the laws and procedure of England, but to leave these people their own laws and courts; and the Company's officers soon acted in this sense. Accordingly, although they had started from an entirely opposite conception, the British were to end by granting to the Indians the application of their own indigenous laws; and that concession was to become the pivot of their policy.

There were other reasons in favour of such a course. Where there is an enormous numerical disproportion between the conquerors and the conquered, it is well that the latter should not be generally admitted to the *status* of the former;<sup>1</sup> and, in a country like India, where the idea of caste is predominant, it is specially in the master's interest to keep his place lofty and isolated. That raised his prestige, and, at the same time, by the invaluable operation of the law of imitation, attracts to him and to his ideas men on the lower stages, who desire to raise themselves, though it be on the backs of their own countrymen, to the level of the conqueror. Moreover, later experience—which at that time, however, had not been acquired, and, for want of which grave errors have been committed in Colonial policy—has shown that the moral part of the civilisation can only be very slightly. They had from one race to another. In a few French and Chinese have learnt (and the Chinese and time how can do likewise) not merely the use and construction of the complicated engines of modern machinery, but even the languages, literature, and science of Europe. But although they can act,

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<sup>1</sup> It will be remembered that one of the grievances of the Roman aristocracy against Caesar was his free bestowal of Roman citizenship upon members of the subject races.

speaking, and calculating like Europeans, they do not think like them. Transformation of thought is very slow, even in an individual, how much more so among a whole people or a whole race! Among members of the same race, again, the communication of new thoughts, though slow, is not impossible: their brains have been similarly fashioned by circumstances and events. But with diverse races everything is different, both as regards natural conditions such as climate and surroundings, and moral conditions such as religion and custom. During the centuries, the various races have advanced along routes which are constantly diverging, to arrive at goals of thought which are entirely different. Recently mechanical progress seemed suddenly to have brought together men whom hitherto everything had separated. They met and mixed, and from one side, if not from both, arose the cry, here are people like to ourselves! That was an error; between them lie half the world and the course of centuries!

Some people think that education will soon efface such differences, and that presently all will become homogeneous. That is untrue also. A man's course of thought is, to some extent, due to himself, but much more to the countless generations which have preceded him, and which have fashioned and furnished his brain. Education will, no doubt, have its effect; above all, if the man is intelligent and subtle; and what people are more subtle and intelligent than the Hindus? But it will not destroy in a few years the decisive influence of the centuries. A man's ancestors, through the usages, customs, and prejudices which he has inherited from them, will protest against the destruction of their work. The individual may adopt the customs, the language, and even the behaviour, of his Western

masters; but his thought, and his inner being, will long remain attached to his past and to his race, and will despise, nay hate, the new conditions. The Japanese, who have conquered the Russians, and who now think that they can laugh at Europeans, have only taken from them the material part of their civilisation. They have held to the essentials of their own, and their moral being keeps them a thousand years apart from us.

It was considerations of this sort which gradually led the British to admit the convenience, nay the necessity, of leaving to the Indians their ancestral customs, unless these were too violently opposed to our ideas of humanity and justice, in which case the honour of Europe required that they should be softened. Warren Hastings drew up "instructions" for Bengal in 1772, which associated Indians and Europeans in the administration of justice, and he effected a happy combination of their jurisprudence. These instructions contained the following significant clause:—"In all suits regarding inheritance, marriage, caste, and *other* religious usages or institutions, the law of the Koran with respect to Muhammadans, and that of the Shastras with respect to the Gentoos, is to be invariably adhered to; and on such occasions *maulvis* are to attend and expound the law." The employment of the word "*other*," which I have italicised, shows that the English already appreciated the fact that the Musalmans and Hindus regard marriage and inheritance as religious institutions, and that any attempt on the part of the secular Government to interfere with these would probably lead to conflict with powerful religious organisations.

It might have been thought that, after instructions which showed so much appreciation of local conditions,

the principle of personal law had been definitely and irrevocably established; but, within a year, the Regulating Act, passed by Parliament for India in 1773, compromised everything. This Act created a Supreme Court, consisting of English lawyers appointed by the Crown, while entrusting the government of the country to a Governor-General and a Council to be appointed by the Company.<sup>1</sup> This brought about a struggle, which lasted about seven years, between the Supreme Court, which applied English law, and the Government and the Company's Courts, which desired to respect native law and custom.<sup>2</sup> The matters at issue were settled by a new Act of Parliament in 1781, which recognised the independent existence of the Company's Courts, exempted the Governor-General and his Councillors from the jurisdiction of the Supreme Court, and precluded this latter Court from interfering with things done in the collection of the revenue, according to the usage and practice of the country, or under the Regulations framed by the Bengal Government.<sup>3</sup> The power of making such Regulations had been conferred on the Governor-General in Council by the Regulating Act of 1773, but they could only take effect if approved and registered by the Supreme Court, a fruitful source of friction. Now, however, Regulations might be issued without reference to the Supreme Court, and subject only to the control of the King in Council. Lastly,

<sup>1</sup> The first Governor-General (Warren Hastings) and his Council were, however, named in the Act itself.

<sup>2</sup> Warren Hastings created two Company's Chief Courts in Calcutta—the *Sadr Diwani Adalat*, for civil, and the *Sadr Nizamat Adalat*, for criminal cases. These Courts remained independent of the Supreme Court till 1862, when they were all amalgamated as the High Court of Bengal.

<sup>3</sup> The Governor-General was at this time Governor-General of the Bengal Presidency, with some control over the other Presidencies of Madras and Bombay, each of which had its Governor and Council.

the Act of 1781 laid down that, in suits between natives within the jurisdiction of the Supreme Court, regard should be paid to the personal law of the party, whether Hindu or Muhammadan, and where the parties were under different personal law, to that of the defendant. It was likewise prescribed that no act committed in consequence of a rule or law of caste in native families should be held to be a crime, although it might not be justifiable under the laws of England. Matters were thus placed in a position which permitted the development of the policy laid down by Warren Hastings for Bengal in 1772, and they also took the same course in Madras and Bombay, where Supreme Courts were also established (in 1801 and 1823).

It remained now to ascertain what the native laws really were. Sir William Jones, a Chief Justice of the Supreme Court of Calcutta, set about preparing a digest of these, and thereupon discovered that there were Hindu laws of very old date, including the celebrated Code of Manu. He had this Code translated into English, and published in 1789, and it became the basis of the civil law which was to be applied to Hindus.<sup>1</sup> (The Sanskrit text only appeared in 1813.) As Sir Henry Maine has cogently observed, however, the attempt to apply it in India for practical purposes had very much the same effect as if the Canonists had triumphed

<sup>1</sup> The Code of Manu is a metrical recension of an older prose Code, and, in its present form, was probably compiled between the second century B.C. and the second century after. In its application to law it may be described as a sort of civil Code, incomplete in some respects, and too comprehensive in others. It deals with questions relating to debt, sale, partnership, donations and resummptions, wages, breach of contract, cancellation of sale and purchase, the relations between husband and wife and between master and slave, the settlement of boundaries, inheritance, theft, robbery, adultery, crime, etc. The laws of Manu were for a long time considered as having the same force in India as the common law in England, but that was an error. The Code of Manu embodied the ideas of the Brahmans, and corresponded, therefore, rather to the canon law of Europe.

over those who held to Roman and secular law in the West. The Muhammadan law, which was primarily based upon the Koran, applied to Muhammadans in civil matters, and universally in criminal cases; Hindu *pandits* and Muhammadan *maulvis* were attached to the Courts to assist in the application of these laws to practical cases; and authorised translations of both Hindu and Muhammadan laws were published.

The principle of personal law had thus at length triumphed, but could it remain intact? Every general principle is threatened as soon as men begin to apply it practically. Theory soars; the man who has to interpret it must stoop to concessions. And in this case it was soon found that complete application of the theory would be difficult. Muhammadan law, applied to Hindus in penal matters, abounded in absurdities as regards crimes, penalties, and procedure, and it was necessary to apply constant correctives.<sup>1</sup> Local judges were not sufficiently learned or subtle to temper its rigours by an opportune and discreet application of English law, while even in the matter of civil law unforeseen difficulties had arisen.

Accordingly, about 1833 it became clear that the principle of personal law had not afforded the natives the satisfaction which had been expected. The Hindu majority was dissatisfied with the retention of Muhammadan criminal law and procedure, while it had also been observed that the population did not consist merely of Hindus and Muhammadans. There were Portuguese, Armenians, Jains, Jews, Parsees, and

<sup>1</sup> The Indian Law Commission, of which I shall speak later on, in submitting (in 1838) the original draft of what was subsequently to become the Indian Penal Code, pointed out that, in Bengal and Madras, the Muhammadan criminal law had been so modified in practice that it had ceased to be entitled to the religious respect of Musalmans, while at the same time retaining all the original defects which embarrassed and impeded the administration of justice.

Burmans, who all claimed to possess their own special laws and customs, but could not obtain the application of these. It had also been found that too much reliance had been placed upon written texts, and that local and personal customs had a much larger scope than had been imagined.<sup>1</sup> Finally, supposing that the Hindu and Muhammadan laws could, without inconvenience, be applied to the natives of India, experience had shown that nothing was more difficult than to discover them all. The Koran, for instance, is but a small part of Muhammadan law; you must also take into account the *Sunnat* and *Hadis*, or sayings and doings of the Prophet, the decisions of the Caliphs who succeeded him, and the *fatwas*, or pronouncements, of the lawyers of the different sects, whose opinions have a value corresponding to that of the Roman Digest. Accordingly, judges and advocates began to hold that it was indispensable to codify the Anglo-Muhammadan law, and the same necessities were felt with regard to the Hindu law also. To all this was added the repugnance felt by the Company and its servants in continuing to apply laws which offended their ideas of humanity and morality. It was all very well to govern the natives by their own law, but some of the revolting enactments of their criminal legislation could not be sanctioned, as, for instance, those which permitted retaliation in the case of murder, or enjoined stoning as a punishment for adultery, and mutilation for theft. The result, then, of half a century of discussion was that the principle of personal law was gradually departed

<sup>1</sup> Mountstuart Elphinstone, in drawing up a Code for Bombay in 1827, gave local custom precedence over the written law, whether Hindu or Muhammadan. The same principle was later on applied to the Punjab, which is, *par excellence*, a country of custom, and where the sacred texts are by no means a safe guide to the actual state of affairs.

from, and that a new idea, that of a general territorial law, began to grow up, and finally triumphed.

The English, at the outset, had claimed their own law and procedure, and the natives did the same. But since then the British Empire in India had grown enormously. The population had multiplied. The affairs of India were receiving much closer attention at home, and some of the most illustrious Englishmen were studying her political and social questions. Was the legal problem above their capacity? Could not one devise a system which would draw inspiration from both native and European ideas, would give the necessary relief to both races, and would result in a satisfactory compromise between local usage and the exigencies of Western civilisation? Ideas of this sort resulted, finally, in the famous Anglo-Indian Codes, but the first steps taken towards their accomplishment were through the Regulations of the Presidency Governments, of which I shall now treat.

## SECTION II

*The Regulations of the Indian Governments—Conflict between the idea of Personal Law and the desire for a definite, just, and moral Legislation.*

As above stated, the native peoples subdued by the British were at first left to their own laws and customs and economic organisation. Soon, however, thanks to the improved political and economic régime introduced by the conquerors, the application of old traditional laws became difficult, and even prejudicial, and the natives themselves began to ask for modifications better suited to the new conditions. Such modifications were



introduced by Government Regulations. The right to frame Regulations and rules for the good government of the Bengal Presidency, provided that these were not contrary to the laws of England, had been conferred upon the Governor-General in Council by the Regulating Act of 1773, and we have already seen that the condition then laid down, that such Regulations should be approved by the Supreme Court, was practically withdrawn by a subsequent statute of 1781, which permitted the Government to make Regulations for the Provincial Courts and Councils that needed no registration with the Supreme Court, although they might be disallowed by the King in Council. Similar legislative powers were granted to the Madras and Bombay Governments in 1800 and 1807 respectively. In a country where the Company's territories were constantly being enlarged by fresh acquisitions, and where continual change was occurring even in its old possessions, these Regulations were necessarily very numerous, and were, for the most part, difficult of access. (Few of them were translated into the vernacular.) Lord Cornwallis remedied this by the codification of the Bengal Regulations in 1793, and similar Codes were drawn up for Madras and Bombay.<sup>1</sup> The Madras and Bombay Codes, which underwent frequent revision, were, however, mere collections of the Regulations which were to be considered as still in force, and they covered a great variety of matters, corresponding in this respect with the Pandects of Justinian. The Bombay Code, promulgated by Elphinstone in 1827, approached much more nearly to a real codification, in the modern sense, of various branches of the law.

<sup>1</sup> This codification was expressly approved, as wise and salutary, in an Act of Parliament of 1797.

As British India was further extended, as, for instance, by the acquisition of the Saugor territory (now the Central Provinces) in 1818, of Assam, Arakan, and Tennasserim in 1824-6, of Sind in 1843, of the Punjab in 1849, of the remainder of Lower Burma in 1852, and of Oudh in 1856, it became evident that such tracts, with their diverse peoples, could not be placed under the full operation of the Codes which had grown up in the older Presidencies. These new territories were, therefore, styled non-Regulation provinces, and only such portions of the existing Regulations were applied to them as the circumstances seemed to justify, while special Regulations were occasionally made for their particular benefit.<sup>1</sup> The laws binding on the non-Regulation provinces were thus, at the outset, of a simpler character than in the older territories, and were, at the same time, clearer, and often more equitable, while the action of the Courts was less slow and costly, and less burdened by procedure which, in many respects, recalls the old actions under Roman law. Nowadays, however, the character of the law and procedure in Regulation and non-Regulation provinces is very similar, and the tracts which require special legal conditions are now dealt with by a different machinery, provided by an Act of Parliament in 1870, which will be explained later on.

There was also a difference between the Regulation and the non-Regulation provinces as regards the staff employed. Positions which, in the Regulation provinces, were reserved for the Covenanted (now the Indian) Civil Service were, in the non-Regulation tracts, open also to officers drawn from the army and from other

<sup>1</sup> In the Punjab this was done by executive order. (An analogy is afforded by the Orders in Council passed by the British Crown.)

sources, and the "Commission" of a non-Regulation province was thus not entirely civilian in character. This difference was recognised by Parliament in 1861, and although the civilian element now predominates even in the non-Regulation provinces, the old difference in nomenclature survives—thus the head of the district is there styled Deputy Commissioner, instead of Collector as in the older provinces. In the non-Regulation provinces, too, judicial and executive functions were, at the outset, combined in the same hands, and the district administrative officers there still deal, to some extent, with civil suits.

The Regulations, both in Regulation and in non-Regulation provinces, played an important part in the development of Anglo-Indian legislation. They were, for the most part, of general territorial application. They placed the administrative and official system on a regular legal basis, and they afforded a convenient machinery for effecting such modifications in the application of personal law as appeared to be necessary. Thus the abolition of *sati* (the voluntary cremation of a widow along with her dead husband) was effected by a Bengal Regulation of 1829. In course of time, however, the Regulation system became no longer suitable. The Regulations met with hostile and contemptuous criticism in regard to their text, intention, and working. As civil administration progresses, laws require to be shaped by lawyers, while the Regulations were the work of lay administrators. Nor were they in any way homogeneous. They were produced by a number of men working in their own provinces and according to their own ideas, and the growing mass of them added to the legal welter which prevailed in the Courts of that period. As pointed out by a judge of one of the

Supreme Courts in 1833, the Anglo-Indian Courts had to deal not merely with all these Regulations, the legal validity of some of which was doubtful, but with Acts of Parliament, the application of some of which to India was uncertain; with the English common law and constitution (in the Presidency towns), whose application was more uncertain still; with the written texts of Hindu and Muhammadan law, and with a variety of local customs; with charters and letters patent of the Crown; with treaties negotiated by the Crown, and treaties negotiated by the Governor-General; and with the circular orders of the Company's principal Courts—whilst efforts were constantly being made to apply the public and international law of Europe to circumstances in which this might be made subject to almost any interpretation.

A system which justified such reproaches was necessarily condemned, and the confusion and inconsistencies of the Regulation period was to be replaced by the unity of the Anglo-Indian Codes. But it would show ignorance of the English mind, and of its horror of theoreticians' logic, to suppose that the British intended to fall into the contrary error of providing a uniform and identical legislation for all India. They were working towards a legislation which should have unity as its rule, but with infinite variety as a corrective.

### SECTION III

*The Anglo-Indian Codes—Unification of Law—Combination of the principles of Territoriality and Personality.*

No country, said Macaulay on one occasion in the House of Commons, needs a Code as much as India, and

no country can obtain the satisfaction of this need more easily. Forty years later, when the Penal Code and the Codes of Civil and Criminal Procedure had long been in force, and numerous laws which might form part of a complete Civil Code had been enacted, the Government of India, replying (in 1877) to Lord Salisbury, then Secretary of State, who had consulted them as to the necessity of more complete codification, held that this would certainly give the Indian peoples a clearer notion of their rights and duties than they would ever obtain if the law were left in its then state. Only a portion of the law had been codified, while a knowledge of the rest required the study not merely of a multitude of Acts, but of text-books written largely with reference to the law of England, and of the mass of decisions, sometimes obscure and sometimes contradictory, which were to be found in the English and Indian law reports.

Opinion may thus be held to have been unanimous on the desirability of recasting the Indian legislation ; ~~but~~ in what spirit was that to be done ? Our principle, replied Macaulay, is uniformity when possible, variety when this is necessary, but in any case certainty. The Charter Act of 1833 had, moreover, specifically declared the desirability of legislation which would apply to all classes in India, with due regard to special rights, sentiments, and customs. Finally, those who were to carry out the new work held that the rôle of the British legislators in India must be to determine, not once for all, but by periodical revisions—

(1) How much of the native law and morality ought to be accepted as law in the Western sense of the word.

(2) What concessions should be made to the religious feelings of the peoples of India.

(3) Which of their customs or ideas should be rejected as immoral and harmful.

In carrying out this policy there was no need of fresh invention. What was required was, rather, the utilisation of the immense materials available—to examine the Western and Indian laws which had been collected for many years past, and to recast these and arrange them in logical order. The real question at issue, and that was one of capital importance, was whether the new legislation should be primarily based on Indian or on English law.<sup>1</sup>

Looking back with the experience of seventy years, we seem justified in coming to the conclusion that the Anglo-Indian legislators of this period committed a mistake, which vitiated a considerable part of their work, in following English law in large measure. It is true that the Law Commissions, of which I shall presently speak, recommended the recasting of English material rather than its mere utilisation, and held that such recasting should be with reference to the habits and methods of thought of the natives. But the English legislators were inevitably led by the influence of heredity, education, and surroundings to embody too large a share of Western thought in the new legislation.

The idea of codifying the law in India had been started by high officers of the Company, such as Sir Charles Metcalfe, had found favour in England, and had figured in the discussions which led to the passing by Parliament of the Charter Act of 1833. In order to prepare the way for its adoption, Parliament had, in this Act, concentrated legislative powers in the hands of the Governor-General in Council,<sup>2</sup> the powers of

<sup>1</sup> Sir Henry Maine had occasion to observe later on that in India it would have been safer to apply Scotch law rather than English.

<sup>2</sup> Now styled Governor-General of India instead of, as formerly, of Bengal.

legislation by Regulation previously enjoyed by the Governments of Madras and Bombay being taken away. The Governor-General's Council was strengthened by the addition of a law member, to be appointed from England, whose special task was to be legislation; and provision was made for the appointment of an Indian Law Commission, whose members were to be nominated by the Governor-General. This Commission was to conduct inquiries in India as to the character and working of the existing laws, and the jurisdiction, powers, and rules of procedure of the various local Courts. It was to prepare reports suggesting the changes which appeared necessary, taking into account differences of religion, caste, native opinion, etc. These reports were to be printed, and would furnish material for the new legislation, which would be shaped by the law member and his assistants, and finally by the Governor-General in Council.

This Law Commission, whose president and guiding spirit was the great historian and essayist, Macaulay, ~~who had~~ <sup>the</sup> at the same time, been appointed as law member of the Governor-General's Council, at once set to work. It started with preparing a Penal Code, but its ambitions extended to Codes of Civil and Criminal Procedure, and to a complete Code of Civil Law. When Macaulay left India in 1838, however, only a draft Penal Code had been prepared, and that was destined to undergo much discussion and considerable amendments, and did not finally pass into law until 1860. Deprived of Macaulay's zeal and guidance, the Law Commission's activity materially declined, and in 1853 it was replaced, in connection with the Charter Act of that year, by a fresh Commission which sat in England, and which procured the passing of the Penal Code and

the Codes of Civil and Criminal Procedure. A third Commission was appointed in 1861, and its labours resulted in the passing of several important Acts. It dissolved, however, in 1870, and since then such measures of codification as have been accomplished have been due, almost entirely, to the Legislative Department of the Government of India.

The Penal Code, which was passed into law in 1860, and put into application in 1862, courageously faced the problem as to the respective weight which the new legislation should give to Western morality and to Asiatic custom. While endeavouring to respect Indian thought, it proscribed practices such as human sacrifice, exposure of children, the burning of widows, the burying alive of lepers, so-called religious prostitution, torture, and *thagi*. Another merit was its clearness. It sought and obtained simple and readily intelligible definitions, while it had free recourse to the employment of *illustrations*, which had been formerly recommended by Bentham and supported by Macaulay, and which were of great use to the Courts, at any rate at this period. An illustration of this sort does not in any way replace, or affect, the definition of an offence, but it illuminates it. The definition is short, and sometimes set forth in general, and sometimes insufficient, terms. The illustration gives it an interpretation, sanctioned in advance by legislative authority, by citing carefully chosen practical examples.<sup>1</sup>

The success of this Code was considerable. Within a few years it had been translated into a variety of the vernaculars, and had been applied not merely in British India, but in the Straits Settlements, which at that

<sup>1</sup> Cf. the definition, explanation, and illustrations in Section 191 of the Code, which deals with false evidence.



time were under the Government of India. It has also been applied to cantonments and railways which the British administer in Native States, and, to some extent, in the British possessions in Central Africa.

A Code of Criminal Procedure, which had been on the anvil since 1847, was passed in 1861, and applied in 1862, first in the Regulation provinces, and then gradually throughout India.<sup>1</sup>

Nothing is more characteristic of the scrupulous character of the British, and of the efficacy of their legislative system, than the care they have shown in constantly modifying and amending this Procedure Code. An amending Act was passed in 1861, before the Code had even been put into application, and others were introduced between 1862 and 1869. Three years later, in 1872, an entirely fresh Code, prepared by a great lawyer, Sir James FitzJames Stephen, who was then the law member of the Government of India, was enacted. This, again, was replaced by another Code in 1882, and the latter, after having undergone various subsequent amendments, was, in its turn, replaced by the Code of to-day, which dates from 1898.

The Code of Civil Procedure followed a like course. The material collected for it by the first Law Commission was handed over to the second Commission of 1853, to whom Sir Charles Wood, then President of the Board of Control, specially recommended a simple, uniform procedure, which should be sufficiently elastic to be applied to the lower, as well as to the higher, Courts. This task was a difficult one, and its immediate success imperfect, for prior to 1859, when the Code was

<sup>1</sup> Except in the Presidency towns, the procedure in which lay outside the Code until some time afterwards, when the latter had reached a further edition.

introduced, there were no less than nine separate systems of civil procedure in Bengal alone. It was first applied in Bengal only; but by 1863 it was, with some exceptions, in force throughout India. A Code of Civil Procedure could not, however, achieve immediate success in a country so vast and so diverse, where it had to be applied to a great variety of jurisdictions, and by judges of different origin and training. The Code, after several amendments, was in 1872 still open to grave criticism, and it was entirely recast in 1877 and again in 1882. The Code of 1882, in its turn, has lately, after the most careful and elaborate inquiries, been superseded by a fresh Act (V. of 1908), which involves a large measure of decentralisation, as it embodies only general uniform principles of procedure, while minor matters come under a schedule which can be altered to suit the circumstances of the different provinces, by the High Court or other principal Court of each province, acting with the assistance of a "Rules Committee," and subject to the sanction of the Government.

It may be noted, too, that the process of codification was materially assisted by the creation, under the Indian High Courts Act of 1861, of a High Court for each of the Presidencies, to supersede the separate Supreme Courts of the Crown and *Adalat* Courts of the Company; and by the establishment of a High Court of a similar character at Allahabad, to be followed, later on, by the creation of analogous Chief Courts for the Punjab and Burma.

I have gone into these details to bring out two important facts: (1) The scrupulous vigilance of the British, and their desire to obtain the best law possible; and (2) the elastic character of their legislative instruments. It should be borne in mind, too, that every

revision of the Codes has been carried out after minute and careful inquiry, the greatest pains being taken to enlist the opinions of all who had views worth giving.

The Penal Code and the Codes of Criminal and Civil Procedure are the greatest achievement of the Indian legislature in the matter of codification, but it has not yet attained to a complete Civil Code. Such a Code, as we know in France, cannot be made at once. It must be preceded by separate and independent laws, dominated, however, by the thought of the ultimate Code, in which each of these will find its due place. Preliminary steps of this sort have been taken by the Government of India, and during the last forty years it has endowed the country with a series of useful general laws, such, for instance, as the Law of Evidence (1872), the Contract Act (1872), the Registration Act of 1877, which superseded a previous law of 1871, the Limitation Act (1877), the Specific Relief Act (1877), the Negotiable Instruments Act (1881), the Transfer of Property Act (1882), and the Indian Trusts and Companies Act (1882), as well as Acts dealing with stamped documents.<sup>1</sup> Will the Government of India go further, and adorn its Statute Book with a complete Civil Code? That seems very doubtful. A considerable number of Indians<sup>2</sup> understand the utility of such a measure, and would welcome it; but there are grave objections. A complete Civil Code, drawn up for India by the English, would bring into sharp contrast the fundamental character of the two civilisations, and would affect the mass of the people. The Penal Code,

<sup>1</sup> The Contract Act, however, is a very mediocre enactment.

<sup>2</sup> Especially Eurasians, Armenians, and Parsees, who have no recognised personal law of their own.

in some respects, went counter to Indian sentiment, but, as a rule, such action affected only a small portion of the population. Here, on the other hand, the Indian peoples, and their individual members, would all be affected. Now these peoples possess their own customs, domestic institutions, and social relations; in a word, a definite moral and religious conception. For here religion, to which the people are bound by the strongest ties, plays an enormous part, and any general reform may offend popular sentiment and evoke dangerous resistance. On the other hand, if the legislator, fearing such risks, omits from his laws reforms which his conscience dictates, he lays himself open to the reproach of betraying the civilisation of which he boasts, and of sanctioning by specific enactments practices which he condemns. Accordingly the British have, hitherto, not ventured on a complete Civil Code in which they would either have to accept dishonourable omissions or make dangerous prohibitions. They have contented themselves, as a rule, with legislating upon material interests, and have left the relations of family, caste, and religion under the rule of the customary Indian law. Sometimes, it is true, they have ventured even upon this field, as, for instance, in the law as to the age for the consummation of marriages (the application of which, however, has been prudently limited, and which has had little real influence), or the law which protects a man who changes his religion from consequent loss of property. These, however, are exceptional measures, risky experiments which have only been undertaken through the exigencies of Western morality; and the Government does not seem likely to renew, and still less to extend, their scope. Macaulay was therefore but a

poor prophet when he predicted that a complete Civil Code would have been enacted before 1850.

A Civil Code dealing with property is possible. But one dealing with personal rights would be a leap in the dark, and the English have the more reason not to attempt this in that the different creeds are, in these days, becoming more touchy and more aggressive all the world over, and that legislation which comes from a foreign source, while it may, with the aid of time and vigilance, repress certain criminal practices among individuals, is powerless to modify the traditional customs of a whole people. Reform in this respect must come from the people itself, and, if it comes, will be due to the Social Reform party, of whom I have treated in a previous chapter.

#### SECTION IV

##### *Characteristics and quality of Anglo-Indian Legislation*

Is the Anglo-Indian law good? The British have gone their best to ensure that it should be: they have endeavoured to get to know the subject peoples, and to take their sentiments into account. Anglo-Indian legislation is of a subtle and varied character, which endeavours to adapt itself to the varying conditions of different regions; and if the personal law still applied to the Indian peoples does not suit these absolutely, it would certainly not suit any one else. All this attests the good faith of the British Government, which, in this respect, is carrying on the traditions of the Company. The struggle of Warren Hastings against the Supreme Court of Calcutta was, at bottom, a battle

between the Anglo-Indian law, adapted more or less to the usages of the country, and English law, which was entirely strange. As already stated, although the law has sometimes interfered with native customs, such interference has been of rare occurrence, for Anglo-Indian legislators have taken a sound Native policy as their chief guide, at the expense, occasionally, of jurisprudence, or even of morals. Supposing, for instance, that a Hindu widow of high caste remarries; that will bring about the excommunication of herself, of her second husband, and of their children. But the Penal Code, although in another connection it punishes a man who entices a woman into a marriage which he knows is not binding, is here dumb, although there are strong legal arguments, to say nothing of morality, which might have justified its interference. Such excommunication carries with it material and irreparable loss, and is contrary even to a number of the Hindu texts, to say nothing of a previous Indian Act.<sup>1</sup> Nevertheless, the Code has remained silent, out of respect for opinions which may be absurd, but which are still all-powerful.<sup>2</sup>

The Penal Code abounds with offences and punishments which are strange to us, but which it takes cognisance of out of regard for native sentiment. Adultery, for instance, is a criminal offence, and in some cases a mere breach of contract comes under the criminal law. Thus if palanquin-bearers, who have agreed to take a traveller to a particular point, set him down half-way and disappear, they are liable to imprisonment. Analogous action would, in France,

<sup>1</sup> Act XV. of 1856.

<sup>2</sup> Again, the placing of a Hindu, by violence or fraud, in a position in which he would incur loss of caste was at first treated and punished as a crime, but is now left to redress by civil procedure.

carry a civil remedy only. But in India the abandonment of travellers, in a possibly deserted country, might have grave consequences; and as the palanquin-bearers could not pay civil damages, it is necessary in such a case to punish them in their persons.<sup>1</sup> A special Act (Act XIII. of 1859) also makes breach of contract by labourers an offence in certain circumstances.

As against provisions of this sort, which constitute criminal offences where we should see mere civil wrongs, the Anglo-Indian law contains others which allow excuses and exceptions we are not prepared for. Thus section 292 of the Penal Code punishes the exhibition of obscene pictures or images, but allows this when it becomes a matter of religious practice, as in the decoration of a temple, or the procession of an idol.

Finally, we meet with provisions which aim at modifying certain aspects of the national character. Thus, the Penal Code (sections 96 *et seq.*) condones a considerable number of acts, which would otherwise be offences, if performed in the exercise of self-defence. And here the reason given is that the peoples of India have in the past been little disposed to help themselves, and have submitted passively to violence and extortion. The object of the legislature was, therefore, to encourage a manly spirit, by giving a wide latitude to the right of self-defence. In short, every portion of the Penal Code shows evidence of the desire of its authors to take into account the sentiments of the people, and even their prejudices, however unreasonable these might seem.<sup>2</sup> That is so in regard to punishments as well as to

<sup>1</sup> The extension of railways is, however, rendering this section obsolete.

<sup>2</sup> As an example of the care taken, I may refer to the subject of defamation, dealt with in sections 499 *et seq.* of the Penal Code. There are no less than ten exceptions to the general definition of what constitutes defamation, and each is illustrated by specific examples.

the definition of offences. But here the results have been less successful, *e.g.* the employment made of imprisonment and transportation, as repressive and preventive measures, has not been entirely fortunate. Transportation soon lost the terror which had originally surrounded it, and imprisonment was allotted in such large measure that it became necessary occasionally to restrict its operation.<sup>1</sup> Whipping, again, was not originally provided as a punishment. This was done in 1864 at the instance of Sir Henry Maine, who considered that in certain cases, and for certain offences, it would be a more effective, as well as a more economical, punishment than imprisonment.<sup>2</sup>

The extent to which the authors of the Anglo-Indian legislation have succeeded in their praiseworthy efforts to raise the methods of thought of the population will be discussed presently. But, at all events, they do not deserve the reproach, which has sometimes been levelled at them, of having abandoned the principle of personal law in favour of hybrid Codes which, being of general application, could not give satisfaction either to Europeans or natives. The Europeans have no reason to complain of legislation which took English law as its basis, or the Indians of the preservation of their personal status and recognised custom. Speaking generally, the Codes only cover matters on which native law or custom was silent, or in regard to which its application could no longer be held to be desirable, and the principle of personal law has thus been adequately recognised. The care shown by the Anglo-Indian legislators to adapt their

<sup>1</sup> As has been done, for instance, in regard to imprisonment for debt.

<sup>2</sup> The present tendency is, however, to restrict the cases in which the sentence of whipping may be inflicted, while juvenile offenders, who would formerly have been imprisoned or whipped, are now largely sent to reformatories.



laws to the needs and opinions of the peoples is further evidenced by the infinite variety of their work. Certain laws, such as those which we have been discussing, are applicable to the whole of India, but the bulk of the laws enacted apply to individual provinces or portions of a province—it may be even to a single district, or to a particular class of the population. Every effort is made to keep in view differences of race, climate, education, and social economy. A like consideration may also be found even in matters which are ordinarily of general application. Thus the Presidency towns of Calcutta, Madras, and Bombay, which are in constant contact with Europe, which have a considerable European population, and where the natives are specially advanced, have their own special procedure in the matter of civil and criminal law.<sup>1</sup> Take, again, an example in another field. As has been seen from the preceding chapter, the Indian agriculturists are overloaded with debt, and the Indian Government has been endeavouring for a generation past to take remedial measures. But though the evil is universal, the remedies are experimental, local, and diverse.

This honourable desire to provide for local needs and feelings, which, be it noted, means a vast amount of labour for the administrator and the law-giver, was never more clearly evidenced than after the annexation of Upper Burma in 1886. No one thought of applying existing British laws to the new province. After the first summary measures necessary for its pacification had been taken, the legislation to be applied was carried out by special executive regulations of the Governor-General in Council, under procedure laid down by an

<sup>1</sup> Moreover, in matters not specifically dealt with by Indian legislation English statute and common law here plays a considerable part, whereas it does not thus apply elsewhere.

Act of Parliament in 1870. A Code of provisional instructions was first applied, which was inspired by the spirit of the Indian Codes, but tempered by regard to the usages and forms to which the Burmans were accustomed. Some of the laws specially enacted for Lower Burma were also, but with some modifications, applied to the Upper Province, and special Regulations were made for it on such subjects as criminal justice, civil Courts, law and revenue, villages, and municipalities. (As already pointed out in Chapter II., further special Regulations were also enacted for non-Burman races, such as the Shans, Kachins, and Chins.) Up to 1897 Upper Burma had thus its own special legislation, applied by executive orders, but with the development of the province the situation has changed. In 1897 Burma obtained a Council capable of enacting local laws for the province, and since then Acts of this local Council, or of the legislature of India, have been applicable to Upper Burma, unless it was specifically excluded from their scope.

A similar example of wisdom and prudence is afforded by Baluchistan. This province includes certain districts (British Baluchistan) which are an integral portion of British India; and also districts assigned to British administration by the Khan of Kalat, which are, technically, native territory. The head of the province is Chief Commissioner for the British districts, and Agent to the Governor-General for the assigned districts; and such laws as it is desired to apply to the latter are enacted by the Government of India under the Indian (Foreign Jurisdiction) Order in Council of 1902, while British Baluchistan is dealt with in the same way as Upper Burma. The law originally applied to this province was of a simple character, and borrowed, to some extent,

from the special frontier enactments of the Punjab, and, later on, occasionally from Upper Burma. The first object was to provide legislation which would be sufficient for the simple needs of an infant province, and would, at the same time, regularise the actions of the administration. The application of the Punjab Frontier Crimes Regulation Act, for instance, permitted the authorities to establish special tribunals, and to utilise bodies of local elders (*jirgas*) as assessors in civil and criminal cases; to prevent certain persons from settling down on the frontier; to displace villages; to remove persons whose conduct was suspicious; to check the hereditary vendettas which prevailed, and required a tribe to give security for good conduct. In process of time, however, the people have become quiet, have settled down to work, have developed fresh needs, and require more numerous and detailed laws and more certain guarantees, while the Government, too, has to provide for fresh claims. Accordingly, the Baluchistan Code of 1900 (the collection of laws in force in the province) is considerably larger than the previous Code of 1890, and deals *inter alia* with guardians and wards, railways, paper money, the recovery of taxes, the acquisition of land for public purposes, gaols, police, contracts, and the administration of estates whose holders are disqualified by age or by personal incapacity. In short, the extent to which the laws of British India have been applied to this province has increased, and will further increase as time goes on; while the Acts and Regulations in force have been supplemented by a variety of rules and orders passed by the local administration. Every administrator will recognise the object, and approve the prudence, of a gradual development of this sort.

Even in more advanced provinces we find examples of special procedure. Thus the Punjab has a large body of customary law alongside of the regular Anglo-Indian Codes. The North-West Frontier Province has special legislation for dealing with turbulent tribes, and the United Provinces, though relatively far advanced in civilisation, have a Criminal Tribes Act (of 1854) which enables the authorities to register and place under *surveillance* the members of tribes specially addicted to thieving, or similar crime, and to restrict them to certain definite locations.

Not only, again, is the law of India of a very varied character, but, as I shall show later on, the methods of legislation are also extremely elastic.

It remains to consider whether this legislation has given entire satisfaction to the peoples for whom it has been made. An answer to this question cannot be given in a few lines ; there are distinctions and exceptions. We may, however, at once dismiss the criticisms of those who apparently desire that the Anglo-Indian law should combine the rapid simplicity of Oriental despotism with the minute and costly guarantees of Western freedom ; such a solution is as impossible as the squaring of the circle. Nor have the Indian peoples had to choose between one or other of these opposite methods. The laws which they have obtained from the British Government are, on the whole, an acceptable compromise between them. It is easy to criticise these laws, and still easier to praise them ; the difficulty is to come to a just decision. If you question the English officials on the subject, you find them conscious of having desired that their laws should be practical and benevolent, based on the experience of a race enamoured of justice, and impregnated with deference for native

thought; and they flatter themselves that they have succeeded in this object. I am inclined to think, however, that the success of the compromise which they sought has been prejudiced by the method which they adopted. In legislating for India they felt the pressure of the English lawyers who were watching them, and they committed the error of thinking that they might take English law as their basis. Sir Henry Maine, then law member of the Governor-General's Council, stated publicly, in 1866, that the English law was one of the most cumbrous systems in the world, and that its large application to the Indian peoples would be prejudicial to these. His warning, however, was not sufficiently attended to, and it may be said that his own actions were not entirely consistent with it. As a matter of fact, although it was thought that every effort had been here made to take precautions against Europe, and make concessions to Asia, both the civil and the criminal law were more European in their character than the condition and the interest of the peoples warranted. The authors of these Codes no doubt took as a starting-point the Anglo-Indian legislation which already existed; but this legislation had, through prolonged interpretation by British judges, already lost its original plasticity, and tended, under the influence of the Courts, to become rigid, and to approach the law of England both in principle and in application.<sup>1</sup> For instance, the compulsory sale of ancestral lands for debt was no doubt not entirely forbidden by native law, but it was not

<sup>1</sup> Thus, under the original Bombay Regulations of 1827 a written bond was not adequate proof of a debt; the creditor had to show that the circumstances and the amount of his claim were legitimate. But in 1852 we find an eminent Bombay official, Sir G. Wingate, complaining that the Courts were now granting decrees against the property of debtors on the evidence of bonds alone with the result that the creditor had obtained a power over his debtor which was unknown in Native States.

applied in practice. It was explicitly introduced, and generalised, by the Anglo-Indian law, under the belief that it would enable landowners and cultivators to borrow on better terms. As shown in the last chapter, however, the result was that landlords and tenants, with whom economy had never been a strong point, took to living upon their capital, instead of on their income. Similar examination would show that most of the Anglo-Indian laws relating to landed property have been badly inspired by those of Europe, and this explains why, in India, there has always been antagonism between administrative officers and the professional lawyers. In the matter of criminal law, again, the legislature was largely swayed by British ideas of humanity and morality. Here, however, the British hold themselves to be on much firmer ground than in regard to their property laws. They defend their Penal Code as an undoubted masterpiece, and support this view by the fact that it has been introduced, with only slight modifications, into a number of Native States.<sup>1</sup> They insist, too, that it was their duty to defend a morality which, after all, is universal and not merely English. Here it is probable that they are not altogether wrong, and the criminal law of India does them much honour. But there is not the same enthusiasm in regard to their civil legislation. One of the most eminent administrators of recent times, Sir Antony (now Lord) MacDonnell, wrote on one occasion, that the future historian of British India would find good reason for criticising the British administration, especially in the matter of legislation with regard to land. The same criticism can fairly be applied to the procedure laws. These have been framed as if India were

<sup>1</sup> See Note I. at end of chapter.

inhabited by a well-drilled and homogeneous population, with the result that outside of the Presidency towns the procedure of the Courts seems to be very complicated, slow and costly, and unsuited for about one-third of India. It has excited the indignation of executive officers, and especially of those serving among primitive populations who are still so far from us and our ideas. A Punjab official, who evidently felt very strongly on the subject, once wrote to this effect: "We have here a number of people who cannot count beyond twenty, and who think of nothing but their next meal, and folk of this sort have for fifteen years (1868-83) been subjected—under the influence of law members who were quite ignorant of India, with the complicity of Legislative Councils who did not understand the laws they voted, and in spite of the protestations of the district officers and of a large number of English non-officials—to a procedure which was suitable, at best, to the merchants of Bombay. The laws made have been awkwardly borrowed from Europe, and badly constructed, while India had no need for them at all. This legislative folly was only checked when it began to threaten the Europeans also and they raised an outcry."<sup>1</sup> Again, though the action of the legislatures may be suspended, that of the Courts is not. They go on with their work in spite of warnings and protestations, elaborating, even against the spirit of the laws which they are supposed to administer, a jurisprudence which is hurtful to the interests, and contrary to the ideas, of the peoples.

In short, the intentions of the Anglo-Indian legislators were excellent, and their ideas just. They sought to endow India with a certain, and, at the same time,

<sup>1</sup> The reference here is to the famous Ilbert Bill (1882-3), which will be referred to in the next chapter.

with a varied, legislation, which should permit of progress, sustain morality, and respect custom ; and they have, in large part, succeeded. But they failed to realise that they were giving place too rapidly, and too largely, to the juridical conceptions and procedure of Europe, and they thus compromised the present value of the magnificent gift they were bestowing on India. The law Courts aggravated the error, and allowed a whole class of pleaders to intervene between them and the parties to cases, and to inoculate the latter with a taste for litigation. Nowadays litigation has become a mania, and, at the same time, a speculation. A bold man uses it as a counter in his game, either to terrify his adversary by the prospect of heavy costs and long delays, or in reliance upon the possible inconsistencies of the Courts and the uncertainty of their decisions.<sup>1</sup> And this evil seems capable of no remedy, for the whole of Europe groans under it, and has now lost all hope of deliverance.

## SECTION V

### *Application of the Laws of India*

The application of the laws passed for British India is, primarily, territorial. Particular provinces or tracts may be exempted from their operations, but where they do apply, the general principle is that they cover all the inhabitants concerned, whatever their creed or nationality.<sup>2</sup>

<sup>1</sup> Some twenty-five years ago, in Kumbakhonam, one of the most advanced educational centres in Madras, an astrologer professed to be able to predict the decisions of the High Court in civil and criminal cases, and had a considerable *clientèle*.

<sup>2</sup> The total body of Indian law is made up of a variety of distinct elements, viz.—(1) Acts of Parliament applied to India ; (2) Regulations of the three



The Penal Code admits of no exception to this general formula, which is also universally applied in matters dealing with commerce and the material objects of civilisation (cf. the Explosives Act), and fiscal and administrative laws, as, for instance, those dealing with municipalities.

There are a few exceptions in the Codes of Civil and Criminal Procedure, *e.g.* as regards certain special procedure in the case of trials of European and British subjects, and as regards searches in zenanas, and the appearance of *purdah* ladies before the Courts. The exceptions become numerous and more important when we come to the substantive civil law, even in those portions of it which have been codified, where personal status is concerned. As already explained, the Government has been careful to give to the natives, as far as possible, the benefit of their own personal law and custom, and especially in regard to such matters as marriage, adoption, Hindu joint families, partitions, succession to Hindu and Muhammadan estates, and so forth; while in regard to matters concerning landed property and land revenue, there has been a compromise between English and Indian principles. I have already mentioned the principal sources of Hindu and Muhammadan law. Those of the latter have become so vast and scattered that the Muhammadan law, applied by the Courts to-day, is, in practice, a jurisprudence gradually fashioned by these Courts themselves. The same may be said of the customary law. This has

Presidency Governments prior to 1833; (3) Government of India Acts subsequent to 1833; (4) Provincial Acts passed, since 1861, by the legislatures of the principal provinces; (5) Regulations of the Governor-General in Executive Council, in virtue of an Act of Parliament of 1870; (6) Orders of the King in Council which apply to India; (7) Statutory rules framed under Acts of Parliament; (8) Rules and notifications framed by the Indian Governments, under the authority of Indian Acts.

been recorded, as far as possible, and notably in matters relating to inheritance, marriage, divorce, adoption, the rights of women, and so on. But such information as could be procured was often defective, and it has also happened that matters which were represented by the people of some tract as appertaining to local custom seemed to the English so oppressive and so disgusting, notably as regards the condition of women, that they modified these according to Western ideas.<sup>1</sup> Modifications of this sort have been made both by the legislature and the Courts. The Acts of Parliament which assured the application of their own laws and customs to the people of India, were not among those by which Indian legislators were rigidly bound, and the Indian law-givers have consequently made occasional reforms in matters which seemed to be of special practical necessity, or where they were actuated by ideas of humanity and morality.<sup>2</sup> Native opinion has sometimes accepted and sometimes combated such legislative action, it still hesitates over matters which revolt Europeans, and its advance will be a matter of time and education.<sup>3</sup> The Courts, too, have exercised a powerful

<sup>1</sup> After the annexation of the Punjab, representatives of the various classes of the people were assembled at Lahore, to give information as to the existing systems. The material thus obtained was revised and confirmed by a board of English administrators, but it was in many respects of an indecisive and unsatisfactory character; and the customary law now administered in the Punjab is not so much what actually existed at the time of the annexation as what was believed, and reported, to be in force by Deputy Commissioners and Settlement officers.

<sup>2</sup> As Acts on the moral side may be mentioned the suppression of *sati* in 1829, of slavery in 1843, of certain incapacities resulting from the loss of caste in 1850, and the recognition of the remarriage of widows in 1856. As an instance of practical action, I may cite the Contracts Act of 1872. The Courts had for a long time found the Muhammadan law of contracts inadequate.

<sup>3</sup> Thus the Muhammadan law gives a husband the right to divorce his wife at pleasure, provided he restores her dowry. A poor woman is thus at the mercy of her husband if she becomes old, ugly, and unfit for household work. The Indian legislature would be quite right to remedy the law in this respect, but it awaits the support of Muhammadan opinion.

reforming influence in this direction, which attracts little public attention, and, consequently, less native opposition. They have made use of equity jurisdiction to soften certain features of native law and custom; they have given Hindu texts a general authority which these would otherwise not have possessed; and, under the influence of English law, they have extended to Hindus the benefit of certain European practices which their own law did not afford them.<sup>1</sup> This constant action of the Courts upon the old texts and customs has, on the whole, had a very satisfactory effect, but it has been the work of a number of individuals acting separately according to their own knowledge and conscience, and has produced many divergent and even contradictory decisions, which have given the pleaders the idea that chance plays a large part in a judgment, and have developed the habit of litigation among the people. As a last consequence of the gradual modification of native law, it happens, every now and then, that Hindus and Muhammadans voluntarily renounce the personal law, the application of which they might claim, in favour of the Anglo-Indian legislation, which they find more satisfactory.<sup>2</sup>

There are, however, many natives of India who are not orthodox Hindus or Muhammadans, and who have not obtained the right to be judged by their personal law. The Buddhists of Burma have now obtained full satisfaction in this respect, but the Sikhs, for example, though not orthodox Hindus, are held to fall under Hindu law.<sup>3</sup> The fact is that the Sikh sacred books do

<sup>1</sup> The power of bequeathing property by will, for instance.

<sup>2</sup> It may be noted that the Hindu personal law can only be applied to a man who is actually a Hindu, and when the application is in his own personal interest; and the same applies to Muhammadans.

<sup>3</sup> This was once more affirmed, not long ago, by the Privy Council in the matter of succession.

not contain any systematic exposition of doctrine, and very few practical rules of conduct. Their laws, if one may call them so, are adaptations of the Hindu system, and rest upon custom, and not on written Codes. The Parsees, for whom, after some hesitation, certain special provisions have been made by the Legislative Councils of India and Bombay, have no reason for not submitting, as their interests may dictate, either to Hindu law or, as in the towns, to the Anglo-Indian legislation. The same may be said of the Armenians, the native Christians, and the Jews; and the latter, moreover, are very few in number.<sup>1</sup> The condition of these classes was very unfavourable before the enactment of the Anglo-Indian Codes. But it has been so ameliorated by their means that it is doubtful whether Indian legislation will make any special intervention in their favour hereafter.

## SECTION VI

### *Organs of Legislation*

One of the most important and most disputed questions of Colonial policy is whether the laws of a dependency should be made in the mother country or on the spot. The mother country can draw on the knowledge of jurists who will probably be perfectly impartial. The dependency has the benefit of local knowledge, and, against it, the possible, and probable, partiality which will arise from frequent conflicts of interest between colonists from the mother country and

<sup>1</sup> The Jews of Aden, it may be noticed, objected to being placed under the operation of the Indian Succession Act of 1865, which their brethren in India had accepted, and were subsequently restored to the Mosaic régime. The native Christians of Southern India are also dissatisfied, in some respects, with the application of this Act.

the native peoples. The ideal policy seems to be to give to the dependency the power of legislating, but subject to the control of the mother country, which can exercise this when it deems fit, for the common good. And that is the practical solution which, after various attempts, has now been arrived at in India.

The British Parliament has full power to legislate for India, and it has frequently exercised it. Parliament had necessarily to frame the laws which fix the relations between India and Great Britain, whether in the time of the Company, whose Charters it had periodically to renew, or since the assumption of government by the Crown. It has also dealt with the main features of the Indian administrative system, such as the constitution of the Central and Provincial Governments, and their relations to one another, the Legislative Councils, the High Courts, the recruitment of the Indian Civil Service, and so forth. The Indian legislature is, moreover, forbidden to modify Acts of Parliament passed since 1860, and certain important Acts of constitutional importance passed before that date. Nowadays, however, the direct legislative intervention of Parliament in Indian affairs is much less active, and it rarely enacts special measures for India.<sup>1</sup> It knows that its interference has become less necessary. The Indian Governments have now more experience, and are, moreover, placed under the constant control of the India Office, which, in matters of legislation, extends to the preliminary approval of the Secretary of State to all measures which are to be submitted to the Indian Legislative Councils.

The King can also, in certain cases, pass Orders in

<sup>1</sup> A Bill to modify the constitution and functions of the Indian Legislative Councils is now (March 1909) before Parliament, and will shortly pass into law.

Council which apply to India, as, for instance, in matters of extradition or jurisdiction. Thus, in 1897 an Order in Council made the Bombay High Court the appellate authority in respect of decisions of British Courts in Zanzibar. These cases, however, are rare also, and the great mass of Indian legislation is carried out locally by the Indian Legislative Councils, and, in some cases, by the Government of India as an executive authority.

As already explained, the power of local legislation was originally exercised by the Governor-General in Council, and by the Governments of Madras and Bombay, in the form of Regulations. Those of the Governor-General in Council extended only to the Bengal Presidency, and although he had political and financial control over the Governments of Madras and Bombay, it does not appear that he exercised any specific control over their legislation. The Regulations which they made were forwarded to him for his information, but were not submitted for his preliminary approval. This system of independent laws, all emanating from separate sources, was found defective, and I have already indicated the considerations which led to the system of Presidency Regulations being done away with. The Charter of 1833 for the first time constituted a Government of India,<sup>1</sup> and placed legislative power in the hands of that Government alone. The Madras and Bombay Governments retained their executive functions, but lost their prerogatives of legislation. In order, however, to satisfy the needs of these great Presidencies, their Governments were enjoined to prepare Bills, and to submit these, with the reasons justifying them, to the Governor-General, who was to take them into consideration and inform the

<sup>1</sup> The Governor-General had previously been Governor-General of *Bengal*.

Presidency Governor of the action he proposed to take. The laws made by the Governor-General in Council were, moreover, no longer to be styled Regulations, but Acts, and they were to have the same validity as Acts of Parliament, and were to apply, unless otherwise stated, to the whole of British India, and to all Courts therein—the King's Courts as well as the Company's.<sup>1</sup>

The Charter Act of 1853 for the first time made a distinction between the position of the Executive and the Legislative Council of the Governor-General. It added to the latter, for law-making purposes, the Chief Justice and a puisne judge of the Calcutta Supreme Court, and four official members representing the more important provinces then existing—Madras, Bombay, Bengal, and the North-Western (now the United) Provinces.

The arrangements thus made, while procuring unity of law for India, were, however, found to involve considerable inconvenience. It was alleged that Bengal, which was under the direct control of the Governor-General up to 1853, exercised an undue influence in the Legislative Council, and that the latter, after its expansion in 1853, was trying to assume the character of a petty Parliament, that it enacted 136 standing orders for a committee of twelve, and was demanding reports from Local Governments, and, generally, encroaching on the Executive. After the Mutiny, as a result of careful inquiry, and much correspondence between Lord Canning, who was then Governor-General, and Sir Charles Wood, the Secretary of State for India,

<sup>1</sup> Acts of the Governor-General in Council might be disallowed by the Court of Directors, and were to be communicated to Parliament, which might repeal them; while certain matters, such as the provision of the Charter Act, and the constitutional rights of the Company, were expressly excluded from the scope of Indian legislation.

Parliament was asked to adopt new measures, which took shape as the Indian Councils Act of 1861, the primary charter of the present Indian legislatures. This Act laid down that, for purposes of legislation the Executive Council of the Governor-General was to be reinforced by additional members, not less than six, nor more than twelve in number, who were to be nominated by the Governor-General for terms of two years. Moreover, of these additional members not less than half were to be non-official, and this provision enabled, for the first time, the participation of Indians in the work of legislation. The functions of the Legislative Councils thus constituted were limited to legislation. They could not, for instance, discuss the budget, unless that happened to be accompanied by alterations in taxation, for which legal sanction was required. Nor could measures relating to the public revenue or debt, religion, military or naval matters, or foreign relations be introduced into the Council without the Governor-General's sanction.

The power of legislation on provincial matters was at the same time restored to Madras and Bombay, and their Councils were expanded, for legislative purposes, by the addition of official and non-official members. Lastly, the Act provided for the establishment of similar Legislative Councils in the provinces ruled by Lieutenant-Governors,<sup>1</sup> and such a Council was established for Bengal in 1862, and for the United Provinces in 1886. Burma and the Punjab received similar Councils in 1897; and on the creation of the new Province of Eastern Bengal and Assam, in 1905, a Legislative Council was established there also. The Provincial Legislative Councils, like that of the Governor-General,

<sup>1</sup> In executive matters a Lieutenant-Governor has, as yet, no Council.



were concerned only with legislation, which was to be of a local character and subject to certain restrictions.

In 1892, however, a fresh Councils Act extended the scope of the Indian Legislative Councils, and provided for some of the non-official members being chosen by special constituencies. Thus five of the members of the Governor-General's Council are now respectively elected, subject to the approval of the Governor-General, by the non-official members of the Legislative Councils of Madras, Bombay, Bengal, and the United Provinces, and by the Calcutta Chamber of Commerce. The Provincial Legislative Councils (outside Burma and the Punjab) similarly contain members whose appointments have been proposed by groups of municipalities and district boards, universities, chambers of commerce, and the like. Further, the Legislative Councils, as thus constituted, have the right of discussing the annual budget of the Government of India or of the province, but can not amend or reject it in any part. They are also, under certain conditions, permitted to put questions to the Government on matters of public interest.<sup>1</sup>

This Act of 1892 was described in an official<sup>2</sup> document as having for the first time introduced an element of popular representation into the Legislative Councils. That, however, is not an entirely accurate description. The concessions granted were, no doubt, material, and were appreciated by Indian public opinion, while the discussions on the budgets permitted the members to give their opinions on matters of general policy and

<sup>1</sup> Notice must be given of such questions. They can be disallowed by the President of the Council (the Governor-General or the Head of the province), and when an answer has been given to a question, no further discussion thereon is permitted.

<sup>2</sup> Report on the Moral and Material Progress of India for 1892 and 1893.

administration, and enabled the Governments to explain and defend their actions. But the Councils still contained (except in Bombay) a majority of officials, while the elective system applies only to a portion of the non-officials, and their selection, which requires the ratification of the Governor, is by very narrow constituencies. Hitherto, therefore, these Councils have remained, primarily, mere legislative assemblies, or rather committees, for their numbers are very limited.

A further Councils Bill has now, however (March 1909), been placed before Parliament by the Secretary of State for India (Lord Morley), and will soon pass into law. Its object is to enlarge the Councils, and to do away with an official majority, except in the Legislative Council of the Governor-General. A much larger proportion of the non-official members will now be elected, and in more complete measure than at present, due precautions being taken for the representation of Musalmans, and of special classes such as land-owners and merchants. The Councils will now be able, subject to certain reservations, to discuss the Indian or provincial budgets in detail, and to pass resolutions thereon. They will also be able to pass resolutions on questions of general policy, and the existing rights of interpellation will extend to the asking of supplementary questions. The resolutions passed by the Councils on financial and other matters will, however, be mere expressions of opinion, and their acceptance will be left to the decision of the Government of India, or the Provincial Government, as the case may be. It is clear that these concessions will materially alter the present position. They will be a step, though, as yet, a timid and hesitating one, in the direction of a *quasi* Parliamentary régime, and the Government will have to

explain and justify its measures to a larger extent than has hitherto been necessary.

No change is, however, contemplated in the legislative prerogatives of the Councils as collective bodies. As already indicated, the Viceroy's Legislative Council has not full powers, for Parliament has forbidden it to interfere with certain fundamental matters. The Secretary of State for India, again, exercises a large control over the matters placed before it, and can, moreover, advise the King to disallow any of its Acts, which have, in any case, to receive the sanction of the Governor-General before they become law.<sup>1</sup>

As between the Viceroy's Legislative Council and those of the provinces, there is no definite line of demarcation in the matter of jurisdiction. Usually, the Governor-General's Council confines itself to laws which have to be applied to India as a whole, or to two or more provinces—or to enactments necessary for a province (the Central Provinces, for example) which has no Legislative Council, while the local legislatures deal with Acts of purely provincial application. But the Governor-General's Council retains the right of legislating for any province, and occasionally passes important laws which might otherwise have been taken up in the Provincial Councils.<sup>2</sup> Nor can any Act passed by a Provincial Council become valid until it has received the assent of the Governor-General. In 1907 such assent<sup>3</sup> was refused, for political reasons, to a Bill which had been passed through the Punjab Legislative

<sup>1</sup> Similarly, the sanction first of the Governor or Lieutenant-Governor, and second of the Governor-General, is required to Bills passed by a Provincial Council.

<sup>2</sup> For example, the Deccan Agriculturists Relief Act, 1879 (Bombay); the Bengal Tenancy Act, 1885; the Madras Civil Courts Act, 1885; the Allahabad University Act, 1887; the Lower Burma Courts Act, 1900; and the Punjab Alienation of Land Act, 1900.

Council on the subject of canal irrigation colonies in that province.

Moreover, a Local Government cannot introduce measures into its own Council without the cognisance of the Secretary of State and the preliminary approval of the Government of India, not merely to the principle of the proposed Bill, but to every clause thereof. Sometimes the Government of India accepts such a Bill in principle, but holds that the time is not opportune for its introduction; the Local Government must await the result of similar experiments which have been tried, or contemplated, in other provinces. Again, even when it sanctions a Bill it very often makes considerable modifications in the details.<sup>1</sup> In short, in legislative matters, and still more in questions relating to ordinary administration, there is a tendency (though it is as yet only a tendency) to despotic concentration of power in the hands of the Government of India. This Government does not content itself with general instructions: it supervises the detailed application of these.<sup>2</sup> When life is too much concentrated in the centre, the extremities get cold, and nowadays one notes, as a significant and regrettable symptom, that ambitious civilians long to exchange service with their own Provincial Government for direct employment under the Government of India.

<sup>1</sup> It often happens that amendments which a Local Government thinks desirable in local laws are not pressed, because of the delay which references to the Government of India would involve.

<sup>2</sup> See on this point the recently published report of the Royal Commission on Decentralisation in India. The Commission, while generally satisfied with the character of the relations existing between the Government of India and the subordinate Provincial Governments, indicated a variety of matters in which the control of the Central Government was unnecessarily stringent, and required to be relaxed. It should be added, however, that they did not think it desirable to diminish the control of the Government of India over provincial legislation.

In theory there is no distinct Legislative Council for India. The Governor-General's Executive Council is merely re-enforced, for legislative purposes, by a certain number of additional members. The Legislative Council is really, however, becoming a separate body, and this will be still more the case under the new legislation now in progress. The Governor-General, since his creation in 1773, has always had an Executive Council, and the Governor-General in Council is the Government of India. Originally there were three ordinary members of the Council, the Commander-in-Chief being an extraordinary member. The Charter Act of 1833 added a fourth member, who was to be taken from outside the Company's service and was to be specially concerned with legislation. Originally he did not act as a member of the Council, outside legislative matters, but since 1853 he has been a full member of Council. The first of the law members (some of whom have adorned their position) was Macaulay. In 1833 he was a member of Parliament, and Secretary to the Board of Control, which dealt with the affairs of India. He was a man of enormous learning and incredible industry, but he was poor, and needed to obtain, at the price of some years' exile, a competence which would ensure him a Parliamentary career. This and the ambition to carry out a great work of codification led him to accept, perhaps to obtain the creation of, the post of law member. I have already spoken, in a previous section, of his achievements, and those of his successors, in the matter of codification.

Originally the Executive Council was also the legislative body; but in 1853, as already pointed out, certain officials were added to it for the purpose of discussing

members, including natives, commenced in 1861. In that year, too, a fifth ordinary member was added to the Council, and a sixth member by an Act of 1904. The Executive Council was originally a committee which dealt collectively with all matters that concerned the Government. But since the time of Lord Canning each member has charge of his own department in regard to which he is in the position of a Minister of State, and the collective Council sits as a cabinet merely for the consideration of important questions, or of differences between particular departments. The present distribution of work is as follows: The Governor-General (commonly styled the Viceroy since 1858) has direct charge of the Foreign portfolio, which includes the relations with the Native States of India. The Commander-in-Chief is also, as Army member, practically a Minister of War.<sup>1</sup> The portfolios of the ordinary civil members have varied from time to time. At present the separate departments are those dealing respectively with Finance, Commerce and Industry, Home (general internal administration), Revenue and Agriculture, and Legislation.<sup>2</sup> The Council has thus become an assembly of specialists, who hold office for five years. Their theoretical equality with the Viceroy, who has a large voice in their appointment (although this is formally made by the Crown on the advice of the Secretary of State), has, in practice, disappeared, and the respon-

<sup>1</sup> The functions of Minister of War formerly rested with a separate military member. In 1905 this appointment was abolished, and the Commander-in-Chief, as Army member, took over most of the work. There was, however, a separate Military Supply member, who dealt with matters relating to ordnance, military works, stores, etc. This appointment was, however, abolished in April 1909, and all matters connected therewith passed into the hands of the Commander-in-Chief as Army member.

<sup>2</sup> The Revenue and Agriculture member is also in charge of civil public works (irrigation, roads, and buildings), while railways are under the Commerce member.

sibility is becoming more and more concentrated in the hands of the Viceroy and the Secretary of State. As a legislative body, the Council of the Governor-General at present (March 1909) consists of all the executive members of the Government of India, of the Head of the province in which the Council meets (generally the Lieutenant-Governor of Bengal or of the Punjab), and of sixteen additional members, of whom six are officials, nominated by the Governments of the principal provinces to represent their interests, and ten are non-officials. As already stated, five of the non-official members are chosen by a species of election. The remaining five are nominated by the Governor-General with reference to matters likely to come under discussion during their term of office (two years), and to the necessity for obtaining a due representation of various classes and interests. (They occasionally include a representative of a Native State.) The majority of these non-officials are natives, but the latter are not satisfied with their position. They claim a larger amount of representation, a larger application of the elective principles, and more real powers, which the legislation introduced by Lord Morley will give them.

As a specimen of the composition of the Provincial Legislative Councils, it will suffice to take that of Bombay. The Executive Council here consists of a Governor and two ordinary members, and to these are added, for the purposes of legislation, additional members up to a maximum of twenty, of whom only nine may be officials. Of the eleven non-officials, eight are appointed on the recommendation, respectively, of the municipality of Bombay, the Bombay University, the Chamber of Commerce, the municipal corporations in the districts, the district boards, and the landowners of the Deccan

and of Sind. The elections by some of these bodies, as, for instance, by the district boards and the landholders, excite much interest, and are often keen contests.

While the Legislative Councils of India form the usual legislative machinery, there are cases in which other methods are required. Thus newly acquired territories, or tracts which are in a backward or troubled condition, could not be safely submitted to the ordinary law and procedure. Up to 1870 the Government of India had to meet the circumstances of such territories by special measures, which were often of doubtful legality,<sup>1</sup> but since that year Parliament has furnished the Government with an admirable and elastic procedure for dealing with such cases. The Secretary of State for India can, by resolution, declare the provisions of this Act (33 and 34 Vict., C. 3) applicable to any portion of British India, thereupon the Local Government can propose drafts of regulations for the peace and good government of such territory, and these, when approved by the Governor-General in Executive Council, have the same legal force as Acts of the legislature. These tracts, and others specially scheduled for the purpose, may also be dealt with under a subsequent Indian Act (the Scheduled Districts Act of 1874) which empowers the Local Government, with the previous sanction of the Governor-General in Council, to declare the law in force in any such district, and to extend to it, with or without modification, any law in force in other parts of British India. As I have already pointed out, it is in the exercise of this special procedure that practical and efficacious legislation has been given to provinces such as Upper Burma, Baluchistan, the North-West Frontier

<sup>1</sup> Lord Dalhousie's orders for the Punjab had, for instance, to be legalised by the Council Act of 1861.



Province, and Assam, while portions of other provinces—down to quite small tracts—may be, and have been, similarly dealt with.

The Governor-General alone (not the Governor-General in Council here) is also empowered, under the Indian Councils Act, to make special Ordinances in cases of emergency. The currency of these is, however, limited to six months, and the power has been very rarely exercised. Further, certain old Regulations and Acts permit the executive, in the event of internal disturbance, to suspend the normal action of laws and Courts. (See, for instance, the Bengal State Offences Regulation of 1804, the similar Madras Regulation of 1808, the Bengal State Prisoners Regulations of 1818, similar Madras and Bombay Regulations of 1819 and 1827, and the State Offences and State Prisoners Acts of 1857 and 1858.) Certain persons whose actions and influence were deemed prejudicial to public order in the Punjab and in Bengal were arrested and interned as political prisoners without trial under an old Bengal Regulation of this sort, so recently as 1907-8. Lastly, the Governor-General in Council, as representing the British Crown, can, by executive order, make or apply laws, and set up Courts, in territory which, though under British administration, is technically part of a Native State, as, for instance, in military cantonments and along railways, in the assigned districts of Baluchistan already referred to, and in the province of Berar, which, though permanently leased to the British Government, is still nominally part of the State of Hyderabad. Such jurisdiction is now exercised under the Indian (Foreign Jurisdiction) Order in Council of 1902.

These special methods enable us to understand the statement of a recent commentator that no Government

is better provided than the Government of India with the means of facing extreme dangers by extraordinary remedies. A small Council, which could assemble in half an hour in secret conclave, could, he observes, frame in a single sitting an enactment which might stop every printing press in India. But though literally true, such an observation is calculated to give an entirely wrong impression. No one can read the preceding pages without appreciating the extraordinary respect for legality which animates the Government of India. It now remains to show how the machinery it has set up works, and the abundant, ingenious, and complex methods which have been sought in order that the laws shall take just account of all the interests involved.

## SECTION VII

### *How Law is made—Procedure of the Viceroy's Legislative Council*

The extreme difficulty of legislating for a dependency follows from the difficulty of discerning its true needs. This is an embarrassing task even in a country swayed by public opinion, such as France or England, and yet, with the care taken by persons interested to make clear to the Government what they style national interests, the legislator is here assured of obtaining all the material for a decision, and has only to use his own foresight. In India, however, it often happens that, in spite of all precautions, the persons interested are often not aware of the projects of the legislator; if they are, they do not know how these will affect their interests; and, if they do know this, they lack the

means of claiming and obtaining a hearing. In nine cases out of ten it is a Government official who will have to warn people of this sort of what is being done, and make himself their interpreter or even their advocate. Nowadays, it is true, the spread of education has produced more men able to understand matters for themselves, but only legal and judicial officials could adequately describe the childish ignorance of their own interests which has, for example, placed so many great landlords under the heel of usurers and money-lenders. It is because it knows all this that the Government of India has, in the matter of legislation, adopted a procedure which is at once complicated and benevolent. It hopes, at the cost of time and trouble, to succeed, as far as it can, in mastering the economic, social, and public conditions which render a project tolerable or desirable. Its first wish is for information, and, in so far as there is a public opinion in the matter, it wants to know what this fears or desires. We are far from the era of Macaulay, when a Bill might be prepared and passed into law within a few weeks. Nowadays, in spite of the easier conditions brought about by railways and telegraphs, the Government of India has imposed upon itself rules of prudent slowness, laborious and vast inquiries, and lengthy secret discussions, which take place between the departments of the Government concerned as a preliminary to public debate. And even now, with so many precautions, it would be rash if it flattered itself that it was fully informed, or that its officers of to-day, who travel freely over the country, and are fortified by innumerable documents, and by constant interviews with Indians who are able and not afraid to speak, are closer to the true sentiments of the people than their

predecessors, who were relatively isolated and obliged to draw on their own ideas.

The main character of the present legislative methods is caution — constant intervention by experts in the shape of law members and the officials of the departments concerned; a scrupulous study of precedents; a constant search for information from Local Governments; the seeking of advice from competent lawyers; inquiries from different points of view; discussions in committees of Legislative Councils preceding the full debates; publications in the vernaculars, as well as in English, of the official draft of a Bill and of any important modification proposed later; the rules regulating the procedure of the Legislative Councils—all these are due to the idea of giving the least possible influence to ignorance, rashness, excessive zeal, or intimidation. I do not venture to say that the Government of India has completely succeeded. There are, no doubt, mistakes and defects, but the fact that a rule may be broken, or that its application may prove faulty, does not diminish the credit of the prescriber, and the rules I am speaking of are an honour to the Indian Government. The primary responsibility for the enactment of laws rests, I should say, with the Executive Government; very few Bills are introduced by private members, and still fewer of these pass into law.

Between the vague idea from which an official Bill starts, and the final placing of the Bill before the Legislative Council, there is a whole series of formalities. The idea ordinarily originates with a Local Government, or with one of the departments of the Government of India. In either case, it is taken up by the department concerned, which, in dealing with

and fashioning the case, communicates with the other departments whom the matter may interest, and takes into account their observations and criticisms. The outlines of a Bill are then prepared, and if the Viceroy and the Executive Council have decided that legislation should be undertaken, the Legislative Department, at the head of which is the law member, fashions the draft, while, if the question is of any importance, the sanction of the Secretary of State has now to be obtained.

When the Bill is ready for submission to the Legislative Council, it is printed and circulated, with a statement of its objects and reasons, among the members, and introduced, with an explanatory speech, by the member of the Government who has special charge of it. It is then published in English, and in the vernacular, in the various Government gazettes, so as to elicit criticisms, while the opinions of the Local Governments are, as a rule, specially called for. The next stage is the reference of the Bill to a Select Committee of the Legislative Council, on which the law member always sits. This Committee considers the opinions received, discusses the Bill freely, and, generally, makes alterations therein. If these are material, the revised draft is again published for criticism, and this may happen more than once.<sup>1</sup> When the Select Committee has finished its labours, it submits its final report, and the Bill then comes on for discussion by the Council as a whole, and any member may, after due notice, submit amendments, which are discussed and voted on. The discussions take place according to fixed rules of procedure, and when they have been concluded, the Bill, as passed, is ready for the assent of the Governor-General.

<sup>1</sup> See Note II. at end of chapter.

The public sittings of the Council are conducted very quietly, in a historic room adorned with the portraits of great Governors-General. At the head of the long green baize table is the Viceroy, who presides.<sup>1</sup> Along the sides are seated the official and non-official members in order of seniority. Beyond the foot of the table, and facing the Viceroy, are rows of chairs for the public, and little tables for the reporters. Ordinarily the debates lack eloquence or passion. Lord Curzon was very eloquent; he has, in fact, been reproached with abusing this talent and—a rather coarse journalist added—with abusing the patience of his audience. But orators are rare in the Council. A few of the Government officials of former days—Sir A. Mackenzie, Sir Auckland Colvin, and Lord MacDonnell, for instance—were fine speakers; and among the native members to-day you find Mr. Gokhale, whose talents in this direction caused some inconvenience to the Government on one occasion during the temporary absence of Lord Curzon.<sup>2</sup> These, however, are exceptions; usually there are no set speeches, but rather conversations, and reading of what Lord Curzon sarcastically styled manuscript eloquence. The members never rise to speak, but always remain seated.

It may excite surprise that, with a Government swayed by the Parliamentary traditions of England, a Legislative Council of this importance should lack the passion, or at least the vivacity (I dare not say the sincerity), of Parliamentary debates, and Macaulay certainly held that it would be necessary to take precautions against passionate discussion. But although there have been many changes since his time, the form

<sup>1</sup> In the absence of the Viceroy the chair is taken by the senior ordinary member of Council.

<sup>2</sup> During the discussion of the Official Secrets Bill in 1904.

and character of the Government remain unchanged. Macaulay described it as an enlightened despotism, and it is so still. The members of the Government, however they may have differed among themselves in regard to the merits of a Bill, are bound, once it has been put before the Council, to support it, and the same obligation applies to the additional official members, who may even (as in the case of the cotton duties) have to support measures forced upon the Government of India by the Secretary of State. Some of the non-official members, again, are great Zamindars, or European non-officials, who would not willingly vote against the Government, and the consequence is that hitherto the Legislative Council has, in the main, had to vote what the Government desired.

This preponderating influence of the Government partly explains why, in spite of the abundant precautions taken, the collaboration of numerous and capable officials, the theoretical control of the Legislative Council, which includes men of eminence, and the control of the Home Government, laws are sometimes enacted which require amendment, or even recasting, almost as soon as they are passed. Another reason for the imperfections of Anglo-Indian legislation is the infinite variety of tasks which fall upon the official *personnel*, even on those in the highest ranks. Their occupations are so varied, the calls upon their time so enormous, that no one has the requisite leisure for the preparation of a Bill. More abundant and official leisure, and freer discussion in the Legislative Councils, might, no doubt, improve matters, but those who live under the régime of modern Parliaments can hardly press a criticism of this sort far. Moreover, and this is a point which I desire to emphasise, in dealing with

the criticism which the laws of India may provoke, it must be remembered that knowledge of their faults comes to us largely from the Government of India itself. The Government of India might, as many other Governments do, regard its work with placid and silent contentment. But its passion for the public good and its desire for improvement constantly impel it to check its conceptions by their results. It examines, blames, and reforms itself, and, as a consequence, it seems to condemn itself in the eyes of superficial critics. But any one who has studied its ample legislative work, and examined, stage by stage, its different and successive creations, feels himself bound to set aside the criticisms which the slowness or the imperfections of this work might provoke, and to render homage to the conscientiousness and knowledge which it displays.<sup>1</sup>

## NOTES TO CHAPTER IV

### I. APPLICATION OF THE INDIAN PENAL CODE IN THE NATIVE STATES

I. (p. 375).—The statement that this Code has been largely applied in the Native States is, generally speaking, correct. But if we compare the criminal legislation of India with that of the most important State, Hyderabad, we shall find numerous differences, not merely in the Penal Code, but in the Code of Criminal Procedure, and in the Evidence Act. For example, the punishments imposed by the Hyderabad law are usually less severe than those allowed in British India, the reason alleged being that the authors of the Indian Penal Code might have been correct at the time this Code was drafted, but that nowadays native opinion considers some of their penalties excessive. In some cases, however, as, for instance, in regard to offences committed under the influence of drink, the penalties

<sup>1</sup> Evidence of undue tardiness in Anglo-Indian legislation is afforded by some of the agrarian measures discussed in the last chapter, and by the Punjab Court of Wards and Civil Courts Acts. Each of these measures was preceded by years of discussion.



imposed in Hyderabad are heavier. There are considerable differences, again, in the sections which deal with morals, such as rape and adultery. The British legislation on adultery has, in fact, been an object of special criticism by Musalmans. They object, in principle, (1) to the Penal Code dealing only with the man who commits adultery with a married woman, whereas the Koran punishes adulterers of both sexes equally, but draws a distinction, in the matter of penalty, between a person who is married and one who is not; (2) to the fact that on the North-Western Frontier, while adultery is punishable with imprisonment (and here in the case of both sexes), the husband who slays an unfaithful wife incurs the penalty of death or transportation. The British law-giver replies to this that the law of England does not excuse such action. That, however, is a feeble plea, and he has better reasons. Supposing the murderous husband remained unpunished, a blood feud, with lasting and terrible consequences, would be set up between him and his wife's relations, whereas his legal condemnation is accepted by the latter as sufficient vengeance; the people are thus led to cease to try and do justice for themselves. Moreover, the point of honour, which the husband invokes, is, after all, not so very lively on the frontier, where wives are bought and sold. And to the man who still pleads outraged honour, the Englishman replies that he must pay, in this direction, for the many benefits which he has obtained from British rule. To it he owes that, for the first time in the history of his race, he is certain that his son will inherit his property, that his women will be respected, and that his enemy will not slay him to take away his land. He must pay for this by enduring some laws which are more severe than the present state of his country might seem to warrant. There is a great deal of force in an *apologia* of this sort, but Muhammadan critics nevertheless hold that, however excellent the Penal Code and however great its success, things would have been better if Muhammadan lawyers had been allowed to show cause against some of its provisions. In answer to the argument that several States have applied the Code as it stands, they point out that it has been thus introduced mainly by the British themselves when, by reason of a minority or otherwise, they were in practical possession of the administration of the State, and they dwell on the modifications introduced by Hyderabad, which was allowed to act at its own discretion.

## II. PROCESSES OF LEGISLATION

II. (p. 398).—A good instance of the elaborate methods of Anglo-Indian legislation is afforded by the notes and discussions which eventuated in the passing of the Land Acquisition Act of 1894. The

full file bearing on this subject was placed at my disposal by the courtesy of Lord Curzon.

The existing law regulating the compulsory acquisition of landed property for public purposes, which was contained in an Act of 1870,<sup>1</sup> had undergone successive amendments between the years 1871 and 1884. Even so, however, the law was not deemed satisfactory, and it was thought desirable to replace existing enactments by a fresh measure. This project was seriously taken up in 1890, and formed the subject of long discussion between the departments of the Government of India, those particularly interested being the departments of Revenue and Agriculture, and of Public Works. There were also opinions by Local Governments as to the amendment of the law. Finally, the matter was deemed ripe for legislation. The Legislative Department of the Government of India prepared a draft Bill, and this was introduced, with a statement of objects and reasons, and an explanatory speech by the member of the Council in charge of the Bill, in March 1892. The Bill was published in the principal vernaculars of India, and was referred to a Select Committee of the Legislative Council. The deliberations of this body, which was reconstituted several times, lasted till January 1894. During this period the Bill was several times recast. On each occasion the new draft was published for general information, and reports were called for from the Local Governments. At length the Bill, as finally amended by the Select Committee, passed into law in February 1894. In going through this file I could not help being struck by certain vices of method. The minute discussion which had taken place in the preliminary stages, and the mass of documents which had been assembled, might, one would have thought, have sufficed for the elaboration of a definite Bill, which might have passed into law with little subsequent amendment. But this was not the case; there was constant hesitation as to whether there should be a simple amendment to the existing law, or an entire recasting of this, and when the latter course had been determined on, the Bill had to be materially revised three or four times. Then, again, in contrast to the slow and deliberate character of the original procedure, you get undue haste at the later stages, the Local Governments receiving inadequate time for reporting on the Bill as introduced, and on the amendments that were successively effected therein. It should be added that the Government of India is not the only administrative body which deserves such reproaches. They are at least equally merited by other Governments, and especially by that of France.

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<sup>1</sup> This was itself preceded by an earlier Act of 1857.

## CHAPTER V

### JUSTICE

AFTER the difficulty of enacting good laws comes the difficulty of finding good judges, and that is one of the most delicate problems which a ruling country has to deal with in a dependency. At first sight it would seem easy enough to draw on the reserves of legal talent available in the ruling country, and England has always possessed many excellent lawyers. But these men must be induced to leave their mother country by large salaries, and when they arrive in the dependency it is perceived that they are, at the outset, incompetent, for they have to deal not with their own folk, but with people of whose laws, customs, and language they are ignorant. These can, of course, be learned, but that takes much time, during which a tropical climate reacts on the health and the character of the new-comers; and a dependency has special need of judges whose physical health guarantees moral equilibrium. It requires an enlightened and laborious administration of justice, which shall be sane, equitable, and prudent—not too severe to those who come before it, nor too complacent to the Government. It is difficult to obtain the fulfilment of so many conditions; and the Courts must, moreover, be near the people and easily accessible to them, which implies that the *personnel* shall be

numerous and the procedure cheap. Now good judges are dear, and sound justice is costly; if you do not want to pay your judges high, and to make Court fees heavy, you must put up with a diminution of quality, and instead of procuring trained experts, you must trust to the chance of getting good results from raw students. Men of this sort will, no doubt, in time acquire knowledge and experience, but you cannot be certain about their character.

There are thus obstacles on either side, and no Government can hope to avoid them all; in shunning some, it will probably strike on others. Let us see how the Government of India has steered its course through such a dangerous sea.

The present judicial institutions of India are of recent date. They all spring from laws and charters of 1861 and subsequent years, and they are certainly not yet perfect; but they replaced organisations which were very defective, and the conceptions which actuated them are just. They deserve some study.

The English have always concerned themselves with the administration of justice. Themselves an aristocratic people who tolerate privileges and abuses, they nevertheless detest those arbitrary and hypocritical dealings which laws are designed to prevent, and which human frailty produces or human weakness endures. They may refuse certain guarantees to their subjects, but they do not commit the criminal folly of promising these and then withdrawing them. They have the courage to proclaim that the interests of their rule must, on occasion, take precedence of abstract justice; and they almost always apportion the guarantees that they give to the civilisation or the temper of those they govern. They have no desire to multiply complicated

and costly institutions, but they are certainly desirous of being just. They lean on the Law Courts and make them an instrument of government, not by requiring any illegitimate services, but by endeavouring to provide laws and rules which are constantly being made more fixed and clear.

It would be out of place to attempt here a complete history of the judicial organisation of British India ; it will be sufficient to indicate the salient characteristics of the systems successively adopted.

## SECTION I

### *History of the Judicial Organisation*

As has been shown in the last chapter, although the English had, at the outset, settled in India as mere foreign traders, they claimed, and obtained, from the beginning the application of their own laws to their factories and settlements. The Company was empowered to create Courts by a charter of Charles II. in 1683, and in 1726 Mayors' Courts were established in the three Presidency towns of Calcutta, Bombay, and Madras. These Courts were supplemented by Courts of Requests, for dealing with petty cases, in 1753, but it was then laid down that civil disputes between natives could not come within the cognisance of the British Courts unless with their own consent.

The battle of Plassey (1757) gave the Company a great territorial dominion in Bengal, and its local agents became demoralised by the sudden change from traders to masters. Corruption and oppression were rampant, and the resulting scandals led the Court of Directors to send back Clive as Governor in 1765, in order to

organise the local administration. It might naturally be supposed that such reorganisation would be based on the concession of full powers by the British Crown, but this procedure could not be adopted. Outside Bombay, the territories which the Company ruled were held, not from the Crown, but in virtue of grants from native princes, and any material change must therefore be based on the authority of the Mughal Emperor. It was with him, therefore, that Clive negotiated, and this policy gave a lasting stamp to the relations of the British with the native princes.

Clive obtained from the Mughal the formal cession of the *diwani*, or administration of the revenues, of Bengal, but the administration of criminal justice was for the time being left with the titular Nawab. Civil justice passed into the Company's hands, but was conducted by native agency under the general supervision of the Company's officers, and the same system was applied in the collection of the revenue. The results of this policy were, however, but mediocre. The Hindu population was not satisfied with its subjection to Muhammadan criminal law. The native judges were largely left to themselves, the chief preoccupation of the Company and its officers was to raise money, and the people were oppressed. In 1772 a diminution of its receipts, following on a serious famine in Bengal, and growing complaints, led the Company to send out, as Governor of Bengal, its most capable local officer, the celebrated Warren Hastings. Hastings, as soon as he was able to study the position, discovered that the people lacked security and protection. In Murshidabad, the capital of the titular Nawab, there were no less than ten different judicial authorities, while elsewhere there were no regular Courts at all. Those who were strong enough

constituted themselves judges, and forced their neighbours to submit to their decisions. Hastings, a reformer who at the same time respected tradition, proposed to remedy this state of things by placing the administration of justice on the double basis of regard for native customs and of really effective control by British officers. British Collectors were appointed, and placed over the *diwani adalats*, or district civil Courts, where they were assisted by native colleagues. The local criminal Courts (*nizamat adalat*) were still nominally (and up to 1790) left in the hands of the Muhammadan officers and jurists (*kazis* and *muftis*), but their proceedings were to be supervised by the Collectors, while central Courts of Appeal were created for both criminal and civil matters.

Thus the natives, or, at any rate, the Muhammadans, who were then the more powerful, received the satisfaction of seeing their laws and jurisdiction maintained, while the English had the right to expect that their control would lead to security. They might anticipate, too, that, as they got to know the natives better, this dualism would lead to measures of reform which, while respecting forms and customs dear to the people, would admit the application of some principles of Western justice. At this moment, however, the British Parliament, which had commenced to take a direct interest in the affairs of India, intervened, in the most unfortunate way, by the passing of the Regulating Act of 1773, already discussed in the previous chapter. The Regulating Act was contemporary with a vicious Colonial policy which led to the loss of the American Colonies, and a similar result might have happened in India, but for the fact that the people had become emasculated under the iron yoke of the Mughal and his lieutenants,

and the genius and pertinacity shown by Hastings in struggling against the evil effects of this measure. The Regulating Act created a Supreme Court at Calcutta, consisting of a Chief Judge and three puisne judges, who were all barristers sent out from England, and to this Court was confided full jurisdiction in civil and criminal matters throughout Bengal. The *Adalat* Courts established by Hastings were ignored, and the Supreme Court, which commenced its work in 1774, was launched, so to speak, on a political ocean without compass or sailing directions. All it knew was that it had been created to repress injustice and tyranny, that is to say (in its view) to take action against the Company's Government and officers; and it commenced this struggle in absolute ignorance of the sentiments and needs of the native population. It claimed to have under its jurisdiction not merely the inhabitants of Calcutta, but those of the *mofussil* (the interior districts), as well as all the servants of the Company, and it applied to these the civil and criminal law of England, and a complicated procedure which was absolutely unintelligible to the natives. So it proceeded in its blind career, breaking or blocking the wheels of government, making administration impossible, violating every native usage, running counter to every native prejudice, and stupefying the Indian population, who had never seen a Law Court thus tyrannising over the executive. This state of things lasted till 1781, and during this time the Supreme Court was at loggerheads with everybody: with the Governor-General personally,<sup>1</sup> the Governor-General in Council, the Courts and officers of the Company, and the high native officials, the great Zamindars,

<sup>1</sup> Under the provisions of the Regulating Act, Warren Hastings had become Governor-General in 1774.



and the tax-collectors. It would not be fair, however, to allow it to be supposed that errors and obstinacy were all on one side. The Governor-General supported his officers and Courts, with or without good reason, and moved these Courts about in order to escape the Supreme Court's jurisdiction. Native opinion was with the Governor-General, as against the Supreme Court, which deprived both Hindus and Muhammadans of the guarantees provided by their laws, and, finally, Parliament, in 1781, passed a fresh Act which to a large extent undid the work of 1773. This Act exempted the Governor-General in Council from the jurisdiction of the Supreme Court, recognised the existence of the Company's Courts, and debarred the Supreme Court from jurisdiction in matters in connection with the collection of the revenue or the local Regulations passed by the Government. It was also laid down, as a fundamental principle, that the natives were entitled to the personal application of their own law.<sup>1</sup> I need not go into the details of subsequent statutes; the outstanding fact remains that though the Supreme Court's powers were still large, those of the Company's Courts had been recognised, and the attempt to apply the English law and procedure indiscriminately had been surrendered. The same system was applied to Madras and Bombay when they, too, received Supreme Courts (1800-23).

It must not, however, be supposed that this system was entirely satisfactory. It provided India with two sets of tribunals, those of the Crown and those of the Company, and between these there was neither agreement nor harmony. The Company's Courts were jealous of those of the Crown, which had jurisdiction over

<sup>1</sup> See the preceding chapter.

his Majesty's subjects wherever they were, while the Supreme Courts were irritated by the little influence they had over the general administration of justice, and neglected no opportunity to claim concurrent jurisdiction with the Courts of the Company, and, if possible, to humiliate and injure them. Each set of Courts, in short, desired complete territorial jurisdiction. This rivalry, however, though it had its evil effects, helped, by the competition to which it gave rise, to improve the administration of justice in India, and to accelerate the modifications required in the application of native law, especially in criminal matters, of which mention has been made in the preceding chapter. Finally, when the Crown took over the direct administration of India, it was seen that the time had come for the fusion of the Supreme Courts with the principal tribunals of the Company, and the existing High Courts came into being.

## SECTION II

### *Present Organisation*

The judicial organisation of India is modelled on the administrative system, and one of its most characteristic features is that executive officers were for long vested with judicial powers, and that they still retain functions of this character to a large extent.

The primary unit of administration is the village; and in some provinces (Madras, Bombay, and Burma) the village headmen are petty magistrates, and can deal with trivial criminal offences. They are competent to impose a small fine, or a sentence of imprisonment not exceeding twenty-four hours.

Villages are, in most provinces, grouped into *taluks* or *tahsils*, the administrative head of which is a *tahsildar*.<sup>1</sup> He is vested with powers as a magistrate, which are also, as a rule, given to his principal assistants, the *naib*, or deputy, tahsildars, and, in some cases, to *sheristadars* or head clerks. These officers are natives of India, and they are usually magistrates of the second or third class. A third-class magistrate can pass sentence of imprisonment up to one month, and of fine up to Rs. 50. A second-class magistrate can award imprisonment up to six months, and fine up to Rs. 200. Selected second-class magistrates may also impose sentences of whipping.

In most of the provinces tahsils are grouped into subdivisions of a district, at the head of which are officers of the Indian Civil Service, usually British Assistant Collectors or Assistant Commissioners, or Indians belonging to the so-called "Provincial Service," who are styled Deputy Collectors or Extra Assistant Commissioners. These officers, like the tahsildars, are magistrates as well as executive officers, and are usually invested with powers of the first class, entitling them to award sentences of imprisonment up to two years, and fines up to Rs. 1000, or whipping.<sup>2</sup> In Madras and Bombay these subdivisional magistrates also hear appeals from the decisions of the magistrates below them.

In addition to these stipendiary magistrates, there are honorary magistrates, appointed from among the native gentry, or persons of consequence in the towns. There are a large number of these—about 2000 in Bengal alone. Some have been given the powers of

<sup>1</sup> Styled *mamlatdar* in Bombay, and *myook* in Burma.

<sup>2</sup> In some of the more backward provinces these powers are enhanced.

first-class magistrates, but the majority have second- or third-class powers only. Sometimes they sit alone, but more often in benches, occasionally under the presidency of a stipendiary magistrate.

Finally, the taluks and subdivisions are grouped into *districts*, and British India contains more than 250 of these. The size and population of individual districts vary greatly. The average area of a district is 4400 square miles, and the population about 900,000. The administrative head of each district is a Collector (a Deputy Commissioner in the non-Regulation provinces). Most Collectors are members of the Indian Civil Service, that is to say, generally Europeans. But this Service already contains a certain number of natives, and other natives belonging to the "Provincial Service" can also be made Collectors. The Collector, who has a considerable staff of European and native assistants, is a magistrate of the first class; but he is also the District Magistrate, and in that capacity has certain powers of control over all other local magistrates. He also, in most provinces, hears appeals from magistrates of the second and third class.<sup>1</sup>

The Collector, as District Magistrate, is also in control of the local police, the District Superintendent of police being under his orders, in matters relating to the peace and order of the district, and keeping him informed of the progress of criminal investigations.

The work of the magisterial Courts is thus, in the main, carried on by officers who have executive functions. But the higher Courts, those of the Sessions Judges, are

<sup>1</sup> Steps are now being taken, in Bengal and Eastern Bengal, towards dissociating Collectors and their assistants from criminal case work, and in Madras tahsildars have already been largely relieved of work of this description.

presided over by persons who are judges pure and simple. There is a Sessions Court for one or more districts ; and the Sessions Judge, who is also a civil District Judge, is, like the Collector, usually a member of the Indian Civil Service, but occasionally a native of India belonging to the "Provincial Service." He holds criminal sessions once a month, and there deals with important cases which are committed to him after preliminary investigation by the magistrates' Courts, and with appeals from the original decisions of first-class magistrates.

In original cases the Sessions Judge is usually assisted by assessors or juries. The assessors give their opinions, but these are not binding on the judge. A jury's opinion has to be accepted, unless the judge thinks fit to submit the case to the High Court, or other principal Court of the province. Juries vary in number, from three to nine, and it is often difficult to procure good and impartial jurors, especially in cases where the accused is a Brahman, or a person of high position.

In heavy districts the Sessions Judge is assisted by additional, or assistant, judges, who, like himself, need not necessarily be Europeans. Finally, there are certain special magisterial Courts, such as those of the Presidency magistrates of Calcutta, Madras, and Bombay.

The Sessions Judge is, as District Judge, head of the civil Courts of his district or districts. Lower civil tribunals are those of district munsiffs, who deal with the smaller suits. Their jurisdiction varies in different provinces, but generally extends to suit values of Rs. 1000 or Rs. 2000. Above them come subordinate judges, who can deal with original suits to any extent, and who can hear appeals from district munsiffs when specially empowered. Otherwise appeals go mainly to

the District Judge.<sup>1</sup> The subordinate judges and district munsiffs are nearly all natives of India.

There are "small cause Courts" for the summary disposal of petty cases, but such small cause jurisdiction is largely exercised by the subordinate judges and district munsiffs in addition to their other work. There is also sometimes an additional, or assistant, judge, who takes over a certain amount of District Judge's work.

In some provinces, such as Assam and the Punjab, tahsildars, Deputy Collectors, and Assistant Collectors are, to some extent, concerned with civil work. This, however, is an exceptional arrangement, and, generally, the executive officers have no regular civil suit jurisdiction, though in some provinces they deal, as revenue Courts, with matters relating to rents. In some cases, too, sales of landed property under the decree of a civil Court require the Collector's approval.

Above all these civil and criminal Courts come the High Courts, or other similar bodies. The High Courts of Calcutta, Madras, and Bombay were established by an Act of Parliament in 1861, and, as already stated, they replaced the old Supreme Courts of these cities and the highest Courts of the Company. A similar High Court, sitting at Allahabad, was created in 1866 for the United Provinces. The Punjab and Burma have Chief Courts, while in the smaller provinces there are one or more Judicial Commissioners, who are usually members of the Indian Civil Service. The High Courts stand highest in dignity and prestige. They owe their creation to Parliament, and their members are appointed by the Crown. One-third of these must be British barristers, and one-third members of the Indian Civil

<sup>1</sup> To the High or Chief Court in the case of important suits dealt with by subordinate judges.

Service. The remaining third are now, usually, native lawyers.<sup>1</sup> The High Courts are at once civil and criminal tribunals, and likewise Courts of Admiralty, Insolvency, and Divorce, with matrimonial and intestate jurisdiction. As successors of the old Supreme Courts, they have original jurisdiction within the Presidency towns, while they have full appellate jurisdiction throughout the provinces for which they are constituted, and can take up and transfer any case from a subordinate Court to their own files. They can also quash any decision of a lower Court which appears to them irregular or improper. Internal rules of procedure regulate the extent to which cases shall be dealt with by a judge sitting single, by two or more judges sitting together, or by a full bench.

The Chief Courts are organised in a similar way, but their *personnel* is smaller, and their members are not so highly paid. The High and Chief Courts are looked on with great respect, especially by the natives, and no one doubts their knowledge or impartiality. Such modifications as have been asked for in their constitution are motivated less by a discovery of weaknesses than by a desire to place them in a position absolutely beyond question. In certain cases the decisions of these Courts are subject to appeal to the Judicial Committee of the Privy Council in London.

### SECTION III

#### *Some special features of the Judicial Organisation*

I have sketched in very general terms the present judicial organisation in India, but every portion of the

<sup>1</sup> The Calcutta High Court at present consists of fourteen judges, and the Bombay, Allahabad, and Madras Courts of seven each.

country has its special aspects. A full and exact account of the judicial institutions would have to show differences which exist between provinces and in regard to certain classes of the population. Some persons are subject to special jurisdictions, and every province has its own peculiarities. The higher officials in India, the Governor-General, the Governors of Madras and Bombay, and the members of their Councils, are not personally subject to the jurisdiction of the Indian High Courts, except in regard to civil actions which might be brought against them as private individuals,<sup>1</sup> though they can be made responsible to English tribunals after their term of office in India has expired.

In military cantonments the original criminal jurisdiction is that of a military officer styled the cantonment magistrate. As regards provincial organisation, even old provinces like Madras and Bombay, whose development has kept pace with that of Bengal, have not precisely the same Courts as the latter province. Still more so is this the case in the newer provinces. In some of the frontier regions, again, notably in Baluchistan and the North-West Frontier Province, special local institutions have been preserved, such as the *jirgas* (councils of the local elders). Elsewhere, too, political considerations have led to the creation of special tribunals, such as the "border Courts" of Central India, which deal with judicial questions arising between neighbouring States. Finally, in some of the most recently acquired provinces the judicial organisation corresponds to that of the non-Regulation provinces of

<sup>1</sup> The Government, however, may be, and frequently is, sued in the Courts, when private persons claim to have sustained improper loss by its actions or those of its subordinates. Following English practice, a suit may lie against the Government or one of its local representatives, unless the law expressly debars such remedy.



a previous era.<sup>1</sup> Burma affords an interesting example of this. This province is divided into two portions: Lower Burma, which was acquired between 1824 and 1852, and Upper Burma, annexed in 1885-6; and although more than twenty years have passed since this latter date, the Government of India has carefully avoided giving an identical judicial organisation to the two parts of the province. That of Lower Burma, after several successive modifications, now approaches pretty closely the general system of India proper. That of Upper Burma is regulated by special laws applying to this province, which prescribe a much less complicated system.<sup>2</sup> In thus varying the institutions of two portions of a single province the Government of India has followed the teachings of a sound Native policy, which requires due account to be taken of the needs and sentiments of the peoples. This policy was thus applied so recently as 1900, when a Chief Court was constituted for Lower Burma. Fourteen years had then passed since Upper Burma was annexed, and the country was absolutely peaceful and in a flourishing condition. It would have been possible, and even reasonable, to extend the jurisdiction of the new Court over the whole of Burma, but the Government did nothing of the sort. Upper Burma had had its own Judicial Commissioner, who sat at Mandalay, and his Court was maintained on the ground that the people of Upper Burma had for more than half a century been in the habit of carrying their appeals there, and that it would probably be distasteful to them to have to proceed to Rangoon, the seat of the new Chief Court, which would have given greater guarantees to litigants, but slower justice, and a

<sup>1</sup> See Chapter IV. Section II.

<sup>2</sup> The Upper Burma Criminal Justice Regulation, 1892, and the Civil Justice Regulation of 1896.

more complicated and costly procedure. Upper Burma is still thought to require simple judicial institutions. As in the greater part of India, the main administrative entities are here divisions of the province, consisting of several districts under a Commissioner; districts under a Deputy Commissioner, corresponding to the Collector of the older province; subdivisions of districts under a European, native assistants of the Deputy Commissioner; and townships corresponding to the *tahsils* or *taluks* of India proper under native *myooks*. As in India proper, *myooks*, subdivisional officers, and Deputy Commissioners have magisterial powers, those of the *myooks* being generally of the third and second class. (The Deputy Commissioner can here pass sentence of imprisonment up to seven years.) The Commissioner has no judicial functions in India proper, but here he generally takes the place of a Sessions Judge, and can even pass sentence of death in grave cases, while he also hears appeals from first-class magistrates. Finally comes the Judicial Commissioner, whose powers are the same as those of the Chief Court, but whose jurisdiction, is, as a rule, appellate only.

These officers also administer civil justice. The *myooks* can deal with suits up to Rs. 500, and subdivisional officers up to a value of Rs. 5000, while the Deputy Commissioner hears appeals from them, and can take original suits up to any value, appeals from him going to the Commissioner. Where the ordinary staff requires assistance special *myooks* are appointed for civil work, and the Mandalay Commissioner's division contains an additional District and Sessions Judge. But while Upper Burma is given its own special judicial organisation, the Government has not had the foresight to give it a special procedure. The civil and criminal

procedure is much the same as in Lower Burma, involving cost and delay, and, as regards both parts of the province, the Government has been reproached with having introduced into Burma, with its entirely different circumstances, methods in force in India proper. So difficult is it, even for men who know and think, to follow out faithfully the principles which they themselves have formulated, to escape from our European mania of aiming at too uniform institutions and too rapid progress, and of endeavouring to secure the welfare of a people by means which they disapprove or loathe.

#### SECTION IV

##### *Some Details in regard to Civil Justice*

In a dependency the Government usually concerns itself much less with civil than with criminal justice, on the ground that a man is free to go to law or not, and that if he ruins himself in law-suits he has himself to blame. Such reasoning is, however, unsound. In a conquered country the ruling race ought, in the interests of its own rule, to provide satisfactory justice for its subjects. The difficulty arises in the practical application of the term "satisfactory." At first sight this would seem to imply that the Courts should be at once honest, expeditious, and cheap. But those who know the character of the Indian peoples declare that cheapness and expedition would lead them into constant litigation, so that the essential condition dwindles down to the ability and integrity of the judges. And if all the Anglo-Indian judges cannot be said to satisfy this condition, those at least who are in the upper and middle grades of the judicial hierarchy

offer sufficient, and even large, guarantees to litigants on the personal side.

There are other respects, too, in which a correct Native policy requires timely intervention in matters relating to civil justice. There are two classes of suits which interest native opinion—those which concern landed property, and those which relate to personal *status*. Nine out of every ten suits which come before the Courts are really concerned with land, and in India property has still certain collective aspects. There are kinsmen who have rights of pre-emption and other claims, and a suit brought against one man may bring into question the rights of twenty others. Hence the extreme importance of suits of this nature, which is such that the native pleaders, of whom there are now a legion, often seek an excuse for introducing them. A suit which begins by a simple claim for a sum of money may end in an attack upon land.

Suits relating to personal *status* are of a still more delicate character. The English know this, and have therefore, as explained in the previous chapter, usually left their subjects under their own personal law in these matters. But occasions often arise on which questions of personal *status* are so mixed up with other matters that it becomes difficult for the Courts, as well as for the legislature, to avoid dealing with them. The Courts have thus been led, in spite of themselves, to pronounce upon matters in which their decisions must be distasteful to a portion of the population. Certain judgments have, no doubt, proclaimed the incompetence of the civil Courts to declare that a plaintiff is a full member of a Hindu community, to cast persons in damages for not having offered sacrifices to idols, to force widows to adopt a son, or to oblige a Hindu to

invite a particular person to a ceremonial feast. But these same Courts have sometimes held themselves competent to declare that a plaintiff has been improperly excluded from his caste, that an alleged Hindu marriage or adoption is not legal, and so on. Such suits are, as will be readily understood, of an embarrassing character, and the legislature has consequently facilitated appeals in civil as in criminal matters. Such appeals are innumerable; one will lie against a judgment which relates to a matter of Rs. 10. The District and High Courts have their files blocked with them, and the Government would receive some support in an attempt to limit their number.

The total number of civil suits is enormous. In 1877 the tribunals of British India had to deal with 1,400,000 of these suits, nearly half of which were for sums less than Rs. 30; in 1901 the total number of suits was 2,200,000. Nor are these large figures due to litigants receiving encouragement in the shape of facility and cheapness of procedure. The complicated procedure, which was formerly confined to the principal Courts of the older provinces, has now penetrated everywhere, and brings with it costly and dilatory formalities which are rigorously enforced by the judiciary. Macaulay, when he was in India, described the Supreme Court of Calcutta as the most costly in the world, and the costs of justice throughout British India are still very heavy. On every suit that comes before the Courts the Government levies duties in the shape of stamp fees, which amount to from 6 to 8 per cent *ad valorem*, so that with pleaders' fees and other costs the litigant must pay from 12 to 13 per cent. Efforts have occasionally been made to reduce this cost, notably under the Deccan Agri-

culturists Relief Act of 1879, in the matter of suits between landowners and money-lenders, but the success attained has been but slight. The Government consoles itself for its relative powerlessness by the idea that dear justice prevents suits, and those of its officers who come into contact with the people are recommended to make these understand that litigation is ruinous and should be avoided. The people, however, do not accept this reasoning, and an opinion is being gradually formed which is by no means favourable to British justice. "It is not the usurers," it is said, "who are ruining the country, but the Courts, with their fees, their pleaders, and their procedure. Matters have been arranged in the interests of the rich, whose money can ensure them the best lawyer and a favourable judgment." There is thus, it will be seen, an allegation of corruption. This is not levelled at the British judges, whose integrity is beyond suspicion, but it has in view the subordinate native judiciary.

The Government has lately endeavoured to give some satisfaction to criticisms of this sort by a recasting of the Code of Civil Procedure, with the object of rendering it more simple, and permitting different rules to be framed by the local High and Chief Courts for different provinces. The new law has, however, only lately come into force, and it is too early to say whether its application will give real relief to litigants.

## SECTION V

### *Some Details in regard to Criminal Justice*

The Government of India concerns itself closely with criminal justice, since this is a matter which may cause

commotion among the peoples, and raise innumerable difficulties, so that its administration may directly contribute to the strengthening or weakening of British rule. I have studied its criminal system closely, and not merely in books. During my visits to India I frequented the Courts, from the High Courts to those of magistrates of the third class. The criminal Courts, which are usually held in unpretentious buildings, some of which recall the offices of the French *juges de paix*, and others the tribunals of our small towns, offer a novel spectacle to the European observer, and he can there trace most closely the admixture and collaboration of the different races. Native character has been so profoundly affected by the taste for chicanery that no European judge, however large his powers, can count on conducting matters as he desires. He has, one may say, but a part in the choir. As a magistrate, however, and especially in the newer provinces, he maintains an immense prestige. He is here both an executive and judicial functionary, and his Court and his office are one. When he sits in his judicial capacity he has his office clerks beside him, and when he has finished that work he goes on, at the same table, with his administrative duties.

Let us suppose ourselves in some town in the Deccan or in the Punjab. If you go to the local Court you will find that the ante-room is full of people, squatting down, in Oriental fashion, pending the arrival of the magistrate. The latter may be a native or a European. He takes his seat, and those who have been waiting at once arrange themselves with reference to the matters at issue. The first business before the Court will be the presentation of applications to prosecute, or to summon witnesses.

Then comes the consideration of cases already on the file, which is usually a heavy one. These have had to stand over for the production of a missing document or for the hearing of an absent witness. The parties interested come forward. The clerks produce the papers. The lawyers, occasionally Europeans, but generally Indians, give their explanations and speeches, and the magistrate hurries them on. Then come the minor matters of the day—a false case, for example—a familiar trick of the Indians, by which experienced magistrates are rarely deceived, and which does not take long. Or, again, a complaint in regard to which the parties have come to terms, but which the magistrate keeps on his file, because the law does not admit of the offence alleged being compounded. Finally come two or three important cases, which will occupy the rest of the sitting. Here is an interesting specimen of what English law styles embezzlement. A merchant claims to have consigned, by railway, goods to the value of Rs. 3000, and produces the railway receipt. But the consignee has not received them, and the Railway Company suspects the alleged consignor to have been in collusion with the stationmaster in order to obtain an indemnity for the loss of the goods, which the two will divide later on. The affair has attracted attention, and an eminent lawyer from Lahore has come down to Lyallpur, where the case is being heard, to conduct the prosecution. The magistrate listens to him, pen in hand. The accused sits in front of the Court, his pleader beside him. A clerk is ready to take the depositions. The witnesses are called; each of them has his thumb-mark taken to establish his identity, takes an oath (or makes an affirmation) to speak the truth, and gives his name, that of his father,



and his caste, age, and residence. Each speaks in his turn, without hesitation and without violent emphasis. Their hands are usually held in front of them, palm to palm, as a mark of respect, but occasionally separate for a gesture intended to carry conviction of the truth of what they affirm.

The examination of witnesses takes place in English before the High Courts, and in the lower tribunals if the parties so agree; otherwise it is in the local vernacular. Where evidence is given in the vernacular, it is taken down in that form by a clerk, while the magistrate or judge records it in English, and in order to prevent discrepancies between the two versions, the magistrate, clerk, and lawyers confer every now and then as to the precise terms to be used. This system is one of great practical utility, especially if there should be an appeal. When the examination and cross-examination of a witness, or the statement of an accused person, has been taken down, what he has said is read out to him in his own vernacular, so that he may correct any inaccuracies, and he then signs it. When the case is over, and judgment given, the accused, if convicted, goes away quietly with the policeman. If acquitted, he listens to the magistrate's discharge, takes hold of the lobe of his left ear, and quits the room in this attitude, the gesture meaning (I am here speaking of Lyallpur), "I am your slave for ever."

The question of language often raises some difficulty. The lawyers generally know English, and the magistrate or judge is usually acquainted with the language of the district; but in the course of a single case there may be a question of more than one language, and, in sessions cases, juries and assessors have to be considered as well

as parties and witnesses. One or more of these may be ignorant of English, and any evidence or discussion which has been conducted in that language has to be explained to them. There are Court interpreters for this purpose, and their translations are checked by the lawyers and the judge.

The hearing of a case, even in a High Court, where the judges are wise and puissant personages, and the British or native lawyers are well paid and attentively listened to, has not the same character of solemn formality as we are accustomed to. The judge, who is constantly taking notes, does not hesitate frequently to interrupt the advocate. English Courts, even more than those of France, rely upon precedent, and their jurisprudence is a slow construction, to which every important case contributes some new material. Citations of law are much less numerous than citations of cases. The advocate will mention one or two. The judge interposes, "But what do you make of this, for example—*Imperator v. X?*" and the clerk fetches the volume of law reports in which the case is contained. There is likewise constant dialogue when it is a question of fact or interpretations. "Your case, Mr. A," says the judge to the lawyer, "is as follows," and he thereupon gives a luminous summing-up of the pleader's arguments. Then he urges certain objections, and when he receives a reply to these he appears satisfied. He looks so benevolent and affable that you imagine him to be favourable to the party whom this lawyer represents. That, however, is not by any means the case. He will proceed in exactly the same way with the lawyer on the other side. His method is a conscientious and patient search after truth, conducted with good temper rather than with dignity.

Matters are otherwise, of course, in the Police Courts of the great cities. That of Bombay, for instance, has 30,000 cases a year, and has constantly to deal with the same persons accused of the same offences. Here the procedure is rapid and summary. A man has got drunk and beaten a woman—Rs. 12 fine, or ten days' imprisonment. A carter is prosecuted by the Society for the Prevention of Cruelty to Animals—Rs. 2 fine, and the ill-treated horse to be cared for at his expense. Two women drunk in public—Rs. 20 fine, or four days' imprisonment. A man has obstructed the traffic with his bullock cart—Rs. 1 fine. Another carter has plied without a licence—6 annas fine. Bad behaviour in the street—5 annas fine. Smuggling of hemp drugs—Rs. 15 fine, and confiscation of the drug. Attempted cheating by a man who falsely passed himself off as a servant—Rs. 60 fine, and so on. Sometimes a lawyer appears, and then the proceedings are longer. The interpreter has here much to do, since Bombay with its 800,000 inhabitants includes people of many vernaculars.

No one who has not studied the administration of justice in India can imagine the obstacles which a judge or a magistrate meets with in finding out the truth—forgery and false accusations, intimidation and bribery of witnesses, etc. I knew of a case in Sind in which a great landlord, in order to find favour with the Commissioner, or to obtain some promised reward, ordered one of his servants to denounce himself as guilty of an offence, and the man, though innocent, had to do this and suffer sentence. Consistent confessions are rare; they will often be made at the outset, and then retracted. A man who has confessed under the influence of immediate emotion, or to obtain good

treatment at the hands of the police, will afterwards think better of his avowal, and declare that it was made under pressure. Forgery may be said to be a domestic industry. In some provinces certain families possess collections of stamped paper, of all values and dates, and use this as a precious inheritance. It is often discovered, in the course of a civil or criminal case, that the documents produced have been entirely fabricated in advance. Another peculiarity of Indian criminology is the false case, which is exceedingly common in the North-West and in Sind, and even in the United Provinces. It is a common form of personal vengeance, and also a method of avoiding domestic scandals. Supposing, as frequently happens in the north of India, that a married woman has a lover who visits her in the husband's absence, and that they are discovered by, say, the husband's father. The latter will not take the risk, or incur the scandal, of personal vengeance on the adulterer. He will raise a cry of "thief," will wake his people, rouse the village, and presently produce twenty witnesses, who will swear that the man introduced himself into the house in order to steal a pair of bullocks. Here is another example. Two families have agreed on the marriage of their children, but later on the girl's parents find her a better *parti*, say some rich Zamindar, who offers considerably more for her. The injured family does not dream of bringing an action for breach of faith. It will wait its time for a fitting opportunity to accuse the relations of the girl of some imaginary crime, such as theft or attempted murder. And when this accusation is made, every member of the accusing family will come forward and give evidence in support of it. Accordingly an experienced judge has always to be on his guard. He

knows with what facility Indians scatter accusations, and he will not accept, without preliminary inquiry, a charge brought by a private person. Nor is less caution required in respect of charges brought by the police. The police have too much *amour propre*. When a crime has been committed, they desire to discover the guilty party at all costs. They inquire, they arrive at a premature opinion, and try to shape the evidence in accordance with it. They torture the accused, and put pressure on the witnesses. Accordingly the Evidence Act lays down that no avowal made by an accused person to a police officer, or while he is in police custody, is of value as evidence until it has been repeated before a magistrate. In spite of such precautions, the misdeeds of the police, which are no doubt exaggerated by public opinion, are frequent. I have myself seen, on more than one occasion, constables who have been imprisoned for attempts to extort confessions. The term of imprisonment was usually two years, and that was a moderate penalty, the judges told me, for their crimes.

The witnesses, again, are less accurate observers, less truthful, and more timid than in Europe. It would be no exaggeration to say that a judge, and especially a criminal judge, rarely finds, in the course of a case, a man on whose testimony he can rely, and of whom he can say, "Here is a person who is telling the truth." The Indian magistrate or judge has indeed a hard task, for he has often to marshal the evidence both for the prosecution and for the defence, and then to try and evolve an impartial opinion. Every one is agreed as to the untrustworthy character of the witnesses. Oral evidence, says a Madras lawyer, is *prima facie* untrustworthy, and when a judge declares that he is convinced

of some particular fact, this must be understood in the sense that, being obliged to come to a conclusion, that which he adopted seemed to him the most probable. On the North-West Frontier, says another observer, it is impossible to rely on evidence which is not supported by independent circumstances. Witnesses who would be worthy of credit fear to give evidence in the Courts, and endeavour to evade doing so. It is not that they hesitate to speak the truth, but that they are afraid to do so in public. They know that their evidence may bring about the condemnation of the accused, and they fear the consequences of this.<sup>1</sup> Accordingly an experienced magistrate or judge will always endeavour first to question witnesses who he thinks will have the courage to speak, such as important personages and Government officers: their example will encourage the rest. This feature of Indian psychology makes the examination of witnesses quite an art, which extends even to details of position. An experienced magistrate, for instance, will require witnesses to face those whom their depositions affect. While they are speaking he looks at the accused, notes his demeanour, and endeavours to get some help from that.<sup>2</sup>

To illustrate the credibility of depositions, and the difficulty of arriving at the truth, I will cite some examples that I picked up in my visits to the Indian Courts. A man in the north of India killed another with a hatchet, and, on being questioned, he gave the following explanation: "As I was driving my goats

<sup>1</sup> A judge once said to me, "We should like to have the right of talking with a witness informally, outside the Court, and of then being able to tell the jury what we had heard."

<sup>2</sup> Sir James Stephen, the author of the Indian Evidence Act, cites the remark of an experienced lawyer in Ceylon: "You must look at the feet of the witnesses." (The native takes off his shoes as a mark of respect to the Court.) "When they are lying their toes will twitch."

they strayed on my neighbour's field. He saw them, came up to me, and struck me with his stick. I replied with a blow of my hatchet, and he fell." That seems a probable story. But later on the accused repented of his frankness, and his witnesses, duly tutored, endeavoured to get him off. Here is their version: "The accused, seeing this, ran to drive the goats off. The neighbour abused and assaulted him, and, in spite of his excuses, struck him with his stick, and endeavoured to snatch his hatchet from him. The accused resisted, but finally let go the hatchet, which, being violently seized by the other, struck and killed him. We saw him fall, ran up, and found, on arrival, that the accused was holding him in his arms and looking after him as if he had been a friend."

Here is another example. At Karachi a European was sued by a tailor for the price of a garment which he denied having purchased. The tailor called the European's boy as a witness, and his evidence was not clear. Faced with contradictory statements, among which the judge could not find out the truth, it occurred to the defendant's lawyer to say to the boy: "You received this garment which had been bought?" "Yes, sahib." The boy's master emphatically dissents. "And," continued the imperturbable lawyer, "having received it, you paid for it?" "Yes, sahib." Both statements were false, but the verdict went in favour of the European. In the same province, Sind, there was another more complicated, and more curious, affair. Two note forgers addressed themselves to certain traders. "Give us," they said, "a Rs. 5 currency note. We will imitate it and divide the profit with you." This was done. A little later, emboldened by success, they

note. The traders again agreed, and received their share of the profit. Later still the forgers said, "If instead of Rs. 5 and Rs. 10 notes, you could give us one for Rs. 1000, what a profit there would be!" The fascinated traders gave the Rs. 1000 note accordingly, but as soon as the forgers received it, one of them fled, and the other proceeded to accuse the traders of counterfeiting notes. They were informed of this charge by a friend, and before they could be arrested, they went in a fury to the man who had accused them and slew him. The magistrate who had to deal with this business, and who had now only the traders before him, groped for a long time in the dark, and only arrived at the truth by means of infinite effort. For months the affair had been presented to him in this guise: Two persons gambled with three traders. The latter lost, and, in a rage, assassinated one of the gamblers, while the other fled with his booty.

The extreme difficulty which the Courts thus experience in arriving at the truth brings about consequences which are, in many respects, regrettable. In a country like India security and justice are the first boons that the people await and demand. Inexplicable acquittals encourage crime, and ruin the prestige of the dominant race. Now frequent acquittals of this sort are caused by the exigency of the High and Chief Courts in matters of evidence. The lower tribunals, which are near the native population, such as the *jirgas* on the North-West Frontier, and the magistrates of first instance, who are largely native and who know the customs of the country, content themselves with proofs which rest on what one might call common sense. But the superior Courts, and the higher magistracy, which is mainly English, have another standard, which often



renders conviction impossible. They only look to justice, and refuse to listen to political considerations, and, in consequence, they acquit right and left.<sup>1</sup> The inferior tribunals, in turn, seeing their judgments frequently set aside, set up like exigencies, with the result that the criminals profit, and public security is menaced. The magistrates, and especially the native magistrates, are indignant; and the executive, at any rate in the less advanced provinces, asks for remedies. It is supported in this by the bulk of native opinion, but not by the Babus, by the men of the University and the Bar, or by the Radical party in England; and the evil will consequently increase.<sup>2</sup>

In the chapter on Law I have dealt with the question of penalties as being one of the matters in which a Native policy can expediently make its action felt. The legislature, in enacting penalties, has been obliged

<sup>1</sup> So far back as 1835 Mgr. Bonaud, of the *missions étrangères*, wrote from the south of India: "A part of this territory is under the government of the Company, and a part under the native Nawab. Thieves swarm in the Company's territory, but are rare in that of the Nawab. The reason is that the British Government favours them by requiring evidence before punishment, and only by restoring property actually found in their hands, while if any one has attacked a thief he risks being punished himself. In the Nawab's country, on the other hand, the thief has to restore more than the value of the stolen property. He is very severely beaten, and is thrown into prison on half rations." The following figures for the Punjab show the increasing proportion of persons condemned to death by the lower Courts who were acquitted by the Chief Court there. In 1867 the percentage was only 4, in 1880 it was 7, but in 1900 it had reached 14.

<sup>2</sup> A very intelligent native magistrate in the west of India wrote as follows, in March 1900, on the subject of offences which the official report on the administration of justice had classed as undetected. It is only technically that such cases can be classed as undetected, for the people know perfectly well who has committed these crimes, and for what motive. They have no doubt on the subject, and an informal jury, composed of the local land-owners, would at once return verdicts of guilty. Proofs thus given of the powerlessness of the law to inspire confidence in the population, and to intimidate malefactors, have increased criminality, and multiplied murders. They show too clearly that the law, in its present condition, is not respected, and that its restraining influence is undergoing a grave diminution in regard to serious crime.

to take account of popular sentiment, and the Courts have to do this also. They must know, when the law gives them discretion, what are the proper penalties to apply to each case. A fine, for instance, which would be ruinous to a labourer, would be insignificant to a rich merchant or Zamindar. Imprisonment would, again, imply lasting dishonour to some persons, and, in many cases, the ruin, not only of the guilty man, but of his family. Accordingly, many judges prefer, when they come to inflict a penalty, to impose a whipping, which only affects the guilty party, and does not involve lasting consequences. In many cases, too, the European and the native conscience are not in accord as to the gravity of a crime, and the degree of punishment which it deserves. Here is a characteristic instance. A man broke the arm of his wife, a girl of fourteen. The native magistrate passed a sentence of imprisonment for twenty-four hours, and justified this by the argument that a woman had no right to prosecute her husband. Fortunately divagations of this sort can be corrected on appeal.

## SECTION VI

### *Appeal Facilities and their Consequences—Increase of Crime*

Anglo-Indian criminal justice has multiplied guarantees to defendants. A man who is condemned has more than one further chance: an appeal to a higher tribunal, an appeal for a special revision, and, in the case of a death sentence, a petition for mercy to the head of the province and also to the Viceroy. Finally, in certain cases, appeals lie to the Privy Council in London.

Moreover, the High or Chief Court of each province has a general right of control over the administration of justice, which it exercises with great vigilance and frequency, and which permits it to transfer a case from one Court to another, to call up cases to its own files, or to re-try, or cause to be re-tried, a case already disposed of. The revision applications which it thus deals with are merely a variety of appeal. They ask for special intervention, in cases where no further appeal lies, on the ground of irregularity of procedure, or of new facts which are alleged to have since come to light.

Anglo-Indian legislation distinguishes two categories of appeals—those on points of fact, and those on points of law; but it also admits, as a ground of appeal, the severity of a sentence passed upon facts held to be established. In criminal matters, one appeal is usually allowed on questions of fact, including the character of the sentence passed, and appeals lie from Court to Court in regular procession—from second and third class magistrates to the magistrates of the district, or to some other first class magistrates empowered to hear appeals; from magistrates of the first class to the Courts of Session; and from the Courts of Session to the High or Chief Court.<sup>1</sup>

Appeals are ordinarily admissible only from a defendant who has been sentenced, but the Government is allowed to appeal against an acquittal to the High or Chief Court of the province. Provision is also made for enabling this tribunal, on the motion of the Government or of a District Magistrate, to revise cases in which there has been a flagrant miscarriage of justice.

<sup>1</sup> In some cases, as, for instance, very small punishments imposed by magistrates of the first class, or by Presidency magistrates, there is no appeal on points of fact, but even here an appeal would lie on a point of law.

The right of appeal to the Privy Council was one of the guarantees sought to be given to the people of India by the Regulating Act of 1773, which established the first of the Supreme Courts. Little use was made of it, however, till 1833, when the Privy Council became, for the first time, a really judicial body, consisting of experienced judges (the Judicial Committee) selected for the disposal of appeals. Since then the decisions of the Privy Council have commanded full respect in India. The appeals they have to deal with are, however, not numerous, and in criminal matters the High Court whose decision is appealed against must certify that there is ground for an appeal. The costs of such an appeal are, moreover, heavy. In India itself appeals are innumerable. The last statistics I have show that they amounted to 175,000 in the course of a year, of which 67·5 per cent were rejected. I have already mentioned a curious and disquieting feature in the Punjab, viz. the growing proportion of cases in which the Chief Court there has reversed sentences on appeal. In Bengal the number of criminal appeals more than doubled between 1882 and 1902, the increase being from 6233 to 12,930, and there was, similarly, an immense increase in the number of revision applications—from 2284 to 5706. The cause of this immense increase is perfectly plain to the experts. It is due to the fact that nowadays, save through the exercise of very special jurisdiction by a High or Chief Court, an appellate tribunal cannot increase the penalty imposed by a lower Court, but can only confirm, reduce, or quash it. This was not so formerly. The Criminal Procedure Code of 1872, which was prepared by no less a lawyer than Sir James Stephen, permitted an appellate Court to enhance

sentences; but this power was taken away by the Act of 1882, whose provisions in this respect were followed by the Code now in force, that of 1898. One can easily see the advantage which this state of the law confers upon persons who have been sentenced, and their lawyers, since they run no risk by appeal. They usually appeal against every considerable sentence, and the wonder is that they do not do so even more frequently. The High Courts, and especially that of Bengal, are crushed by the weight of appeal work, and ask for fresh judges. It would seem better, however, to revert to the former procedure, and to check appeals by restoring the power to enhance sentences. Nor is it only the judicial tribunals which have been moved by the present abuse of the right of appeal. The Government, lay opinion, and to some extent legal opinion also, have been rendered uneasy by it. The curtailment of appeal facilities has been discussed, but such discussion will not have any material effect. The right of appeal is useful everywhere, and in India it is specially necessary, however excessive the use made of it. The reasons are clear: the courts, with the exception of the High Courts, are less competent than those of Europe, and have not ordinarily the check of an enlightened bar and a vigilant press. The mediocre character of the magistracy justifies even the abuse of appeal facilities.

The jurists who organised the administration of justice in India have understood this so well that they have devised, for the benefit of those who come under the jurisdiction of the Courts, a special procedure, which is remarkable and probably efficacious—*i.e.* the constant supervision of a lower Court by the Court immediately above it. Thus the Collector, as Magis-

trate of the district, receives from all his subordinate magistrates statements showing the character of each case which has come before them, and the manner in which it has been disposed of, and is thus enabled, even when there has been no appeal or application for revision by a party, to call for the full records of any case, and to take action if there appears to have been a miscarriage of justice. Information as to cases disposed of by first class magistrates is similarly rendered to the Court of Session, and that Court's cases are reported to the High Court. The High Courts, as already stated, have large powers of revision, and can cause a man who has been acquitted to be tried afresh, or quash a sentence on one who has been condemned; while they can, if they think fit, eliminate possible prejudice by transferring cases from one tribunal to another, or to their own files.<sup>1</sup> It is to facilitate this control, and the disposal of cases on appeal, that magistrates take full notes of the evidence, and that their judgments are full and very clearly written.

The work of the Courts in India is enormous. The people, even when peaceable, love litigation, and in many places they are savage and prone to violence. Nor have the police and the Courts succeeded, as may be supposed, in delivering even pacified and civilised districts from dacoits (armed robbers) and criminal bands. I have had in my hands the records of a criminal prosecution against a gang of this character which had for years plundered several districts of the United Provinces. Its headquarters were in the great city of Agra, and the police for a long time closed their

<sup>1</sup> A District Magistrate can similarly transfer cases as between subordinate magistrates.

eyes to its operations. When it was finally broken up, and its members prosecuted, one of them declared that at that time (1900) there were 214 criminals in Agra who escaped arrest by periodical payments to the police. The chief of this gang—one Mohan Lal, who was then twenty-six years of age—had, according to his own statements, commenced his criminal career at the age of seventeen. The gang was not a single band, but rather an association of bands, under separate leaders, who allied themselves in order to extend their field of operations and their profits. They worked in companies, which rarely consisted of less than twelve to fifteen persons, and sometimes rose to forty or fifty; and their plan of operations was always to descend suddenly, in force and under cover of night, on a town or village, and pillage the house of some wealthy person. They made use of the railway when circumstances required this, or hired vehicles, representing themselves, in order to avoid suspicion, as a marriage procession, while their weapons were hidden in bundles of grass. Mohan Lal had declared that he had often obtained information as to houses worth robbing from the police, and shared his profits with them.

It would seem, indeed, from statistics, that the increase of crime has been much more rapid than its repression. Between 1867 and 1900 the population of the Punjab had certainly not doubled, but murders had increased from 243 in the former year to 690 in the latter; the proportion of convictions in prosecuted cases had fallen from 54 to 40 per cent, while, taking all offences together, the percentage of convictions had sunk from 55 to 24. Cases of breaches of trust, which were seventeen times more numerous in 1900 than in 1867, had only brought about seven times the number

of prosecutions and twice the number of convictions. Cases of cheating, again, had increased ninefold, but the number of prosecutions had only risen by 53, and the number of convictions by 18, per cent. Taking all offences together, the total number reported in 1867 was 49,000, while in 1900 it had reached 180,000. It is only fair, however, to mention that during this period fresh law had created fresh offences.

Nor is this the case of a specially circumstanced province. In spite of the spread of education and of preventive measures, crime is also increasing elsewhere, as, for instance, in Bombay and the United Provinces, and the proportion of acquittals rises along with the increase in crime. This is due to the indulgence of the Courts, the cleverness of the lawyers, and defects of procedure.<sup>1</sup> Taking British India as a whole, the statistics of criminal justice for 1903 showed 1,402,579 offences of all descriptions for a population of 232 million. A large number of these were of a very simple character; but 2 per cent related to murder, 36 per cent to hurt, 20 per cent to assault, and 26 per cent to theft. Out of the total number, 1,050,805 led to judicial proceedings, and 850,000 resulted in convictions. There were 500 death sentences, 1600 sentences of transportation,

<sup>1</sup> The lawyers excel in making use of varying or contradictory statements by witnesses, and they get many opportunities of doing this. In an important case a witness will have made three statements—first, before the police; secondly, before the magistrate, who commits the case to the Court of Session; and thirdly, before that Court. Some months may elapse between the first and last statements; and the lapses of memory and the contradictions which follow are almost inevitable, and are ably emphasised. Another circumstance which explains the high proportion of acquittals is that very often there are a great number of defendants in the same case. If a man has been beaten by one of his neighbours he will accuse not merely the actual culprit, but a number of the latter's relations and friends. Punjab statistics show that in one year there were 49,000 accused in 18,000 cases of assault and hurt. 30,000 of these were discharged after preliminary inquiry, 19,000 were prosecuted, and 3500 convicted.



113,000 sentences of rigorous and 150,000 of simple imprisonment, and 23,000 sentences of whipping, while the totality of fines imposed was about Rs. 4,000,000.

## SECTION VII

### *Separation of Judicial and Executive Functions*

The problem of the separation of judicial and executive functions is perhaps the gravest of the difficulties which accompany the administration of justice in a dependency. In India the British started, as has been seen, from the principle of placing executive and judicial powers in the same hands. In doing so they followed Oriental precedent, and were also influenced by considerations of economy, the small number of their European *personnel*, and the desire of maintaining the authority of their officers. From 1765 onwards the great concern of the East India Company was no longer trade, but revenue. It had to raise sufficient money in India to meet the expenses of its wars and administration there, and had also to pay dividends on its stock in England. It was therefore necessary to give very full powers to the executive officer, who was entrusted in each district with the assessment and levying of taxes. He would, it was thought, be necessarily inclined to moderation by the fact that his residence in a district would be a long one, and that unjustifiable demands would create troubles of which he himself would bear the consequences. ✓ His assessments, which would, moreover, be controlled by higher executive authority, would therefore be moderate; but the taxpayer would seek to avoid even moderate taxation. It would be foolish for the Government to assist this tend-

ency by permitting its revenue officers to be sued or prosecuted before separate magistrates and judges, who might be good lawyers, but who would be ignorant of the economic conditions of the country. In the interests of the State revenue, it was considered necessary to confide judicial functions to the revenue officers, *i.e.* to the District Collectors and their assistants. Other considerations tended to the same result. Any foreign dominion is of a fragile character, and is subject to all sorts of opposition. "If the English in India," it was said, "are but one to a thousand, how can they hope to keep their position unless they make every possible use of forces and circumstances? It is necessary that their agents should be intimately acquainted with the population, and able to penetrate its real sentiments, while, on the other hand, power must be concentrated in few hands, in view of prompt action. And what better school can these officers have than that afforded by the concentration of powers? Is it not an ideal state of things that they should gain experience of the people in one direction as executive officers, and in another as judges? Moreover, when the executive has discovered some danger, this can be rapidly dealt with if it obtains the immediate support of the judiciary. The Government should therefore arm its legal agents with all possible powers, and make them administrators, financiers, and judges in civil, criminal, and fiscal matters." The need for economy, too, supplemented political arguments of this character. In short, the battle between the upholders and the critics of the amalgamation of judicial and executive functions has always turned on two ideas. The one class emphasises the fact that the Government requires money, and needs strengthening; the other that the people require

adequate guarantees. I need hardly say that in practice there was never such an absolute distinction of theses, and that the actual controversy has had varied and successive aspects at different periods. It has also, on occasion, served to mask pretensions which it was not convenient openly to affirm.

¶ The history of these controversies, if told in full, would practically be the history of Anglo-Indian administration. It may be said to have commenced in 1772, and it is going on still. It has, at bottom, been a struggle between ideals and reality; between men enamoured of justice and men who felt profoundly the responsibility of government. This is shown by the fact that some of the ablest of the Governors-General, Hastings and Cornwallis, for instance, were, in turn, for and against a separation of powers, and took practical measures in both directions. So, too, in our own day, eminent administrators who accept separation of powers as an ideal have lacked the courage to break their practical amalgamation. ¶

In 1772 Hastings had established District Collectors in Bengal, and had set on foot a judicial organisation which, while respecting the rights of the natives, gave to the Collector, directly or indirectly, judicial powers in civil, criminal, and fiscal matters, as well as ordinary executive functions. When the enemies of the Company in England learned this, they endeavoured to undo it by the passing of the Regulating Act, with its Supreme Court, the idea being that while the Company should retain the executive government, judicial functions should pass to the Crown. I have already shown how this attempt failed. But in 1780, when Hastings had got the better of his enemies, both in the Supreme Court and in his own Council, he himself recognised

that there was some justice in the criticisms which had been levelled against his original system, and he replaced it by another. The Collectors were now replaced by native *amils*, who administered civil justice; the criminal Courts were made over to native officers termed *faujdars*; and the superintendence and collection of the revenue was vested in a number of provincial Councils. But—and this is a phenomenon to be noted, for it constantly recurs—hardly had the principle of the separation of powers thus triumphed, when the evil effects of it were perceived. Constant difficulties arose between the landowners and the administration, and the conflicts between the various authorities which had been set up became so numerous and acute that, when Lord Cornwallis came out as Governor-General in 1786,<sup>1</sup> he received formal instructions from the Court of Directors to organise the assessment and the collection of revenue, and the administration of justice, in conformity with former laws and local usages, and he forthwith re-established the Collectors, and made them civil judges and magistrates also. It is from this period that the still existing title of Collector and Magistrate dates. Experience, however, showed, in turn, the dangers of this organisation, and in 1793 the same Cornwallis evolved a fresh system, under which judicial and magisterial powers were conferred on separate judges, and the Collectors were made responsible for their acts to these new tribunals. It might seem that the principle of the separation of powers had now gained a definite triumph,

<sup>1</sup> I should like to call the attention of my French readers to the personality of Lord Cornwallis. As a British general in the American war, he had had to capitulate to Washington, but the unpopularity which he thus incurred in England did not prevent his selection to succeed the great Hastings, and he proved one of the greatest Governors-General that India has had. What a lesson for us French!

but practical necessities once more led to a reconsideration of this policy. If the tax-payers received better justice, the public treasury obtained less money, and an empty exchequer caused the Government to reconsider the position and to revert to the old method of accumulation of powers. Changes were made in one direction or another on various occasions, but the general position may be summed up thus. The Collector and his assistants remained magistrates, and had a certain amount of quasi-judicial authority in matters relating to the revenue. Ordinary civil litigation, however, gradually passed—the process is not yet complete in some provinces—into the hands of a separate judiciary, while the higher criminal functions passed from local provincial Courts to Commissioners of divisions, and from these to the District Judges. Finally, in 1861-2 a separate police service was organised, but was kept subordinate to the Collector, as District Magistrate, in matters affecting the peace and order of the district.

Various inquiries on the subject of the separation of powers had been made at different periods,<sup>1</sup> and in 1873 we find Sir Henry Davies, then Lieutenant-Governor of the Punjab, holding that separation of functions was desirable.<sup>2</sup> The National Congress took the matter up in 1866, and has since then constantly called attention to it. Sir Raymond West, a distinguished judge of the Bombay High Court, declared that he had emphasised the importance of the problem to Lord Dufferin, who had expressed his theoretical agreement with the principle of separation. In 1898 a memorial in favour of separation was signed by a number of distinguished

<sup>1</sup> Notably one in 1839, under Lord Auckland, which resulted in the functions of Collector and Magistrate being for a time dissociated in Bengal.

<sup>2</sup> This was, however, primarily with reference to the relief of executive officers from civil judicial functions.

Anglo-Indian ex-officials; and the question has been consistently pressed on the same side by the native newspapers, and notably by papers like the *Maratha*, the organ of Mr. Tilak, the Poona Brahman leader. Lord Curzon found a formidable pile of papers on the subject when he assumed office as Viceroy; and this was added to by inquiries and reports from the Local Governments and the High Courts, which he set on foot. No direct decision on the subject was taken in his time, save that, in accordance with the recommendations of the Police Commission which he appointed in 1902, the control of Commissioners and Collectors over the police was somewhat diminished. Further action has lately been taken by Lord Minto, and it was announced about a year ago (1908) that the Government intended, as an experimental measure, to dissociate Collectors and their assistants from criminal case work in Bengal and Eastern Bengal, leaving them, however, the police and preventive powers necessary to ensure the peace of the districts. ||✓

In spite, however, of the great mass of evidence and opinions that this question has elicited, the main points at issue can be briefly summarised. The quarrel turns almost entirely on two points: (1) that Collectors and their assistants are vested with magisterial, and, in some cases, with more strictly judicial functions; and (2) that where there is a separate judiciary, the District Judges commence their careers as executive officers, and may return to executive work.

Taking the position as it now exists in the greater part of India, the Collector is not merely responsible for the collection of the revenue, but deals also in a quasi-judicial capacity with a number of matters arising therefrom. The civil Courts are generally excluded from

intervention in matters relating to the assessment and collection of land revenue, though these are liable to give rise to delicate questions of civil right, and even of property, while in some provinces the Collector is also a judge in rent suits as between landlord and tenants. The Collector's decisions are no doubt subject to appeal, but what adequate guarantee, it is asked, have landholders and other proprietors when an officer sits in judgment on matters which interest him in his executive capacity? In police matters, again, the Collector is intimately associated with measures adopted for the repression of crime. He can direct the arrest of a suspected criminal, and may then try the man himself, or cause him to be tried by some particular magistrate, while in the latter case the matter may again come before him on appeal. The other magistrates are not merely subject to his control in that capacity, but are also his executive subordinates, and their advancement depends very much on his good opinion. Finally, as already noted, he can bring cases to the notice of the Government or of the High Court for reconsideration of sentences already passed. In certain provinces, again, though these are not now numerous, he has special powers as a magistrate, and is also a judge. How, it is said, can a Collector, burdened as he is with an infinite multiplicity of executive duties, do justice to judicial functions? Even as a magistrate he must, during his early years, lack experience, while he lacks the course of study which would fit him to be a regular judge.

Even where, as in the greater part of India, there is now a separate judicial service, and the Collector is a magistrate only, complaint is made that the District Judges are not trained lawyers. Like the Collectors, they are usually drawn from the Indian Civil Service.

They have had no special preparation for the delicate work of justice, and for some years, at any rate, they can, as a rule, return from judicial to executive work. Moreover, these judges are, as a rule—that, at least, is a very common allegation—civilians who have not been found successful in executive functions. Even supposing, however, that they are men of ample merit, they remain, even as judges, subordinate to the Government, since their promotion still rests with it. Things being so, how can one expect the conditions required for the satisfactory administration of justice—competence, independence, and celerity?

Such is the argument of those who champion a separation of powers, and it is a strong one. Their adversaries recognise this, for they do not deny the defects mentioned, but merely attempt to show that concentration of powers is useful, if not indispensable, to the security of British rule. They no longer bring forward the question of the collection of the revenue. The arguments adduced on this subject were of weight a hundred, or even fifty years ago, but the executive administration is now so powerful and so able that it is not likely that separation of powers would prevent it from raising the same amount of revenue with equal facility. But the adversaries of separation maintain that to take away the Collector's magisterial powers would be to deprive him of one of the most efficient methods which he possesses of becoming acquainted with the mind of the people, and that such acquaintance is an indispensable element of good government. They argue, too, that although the British rule may appear strong, a district which now seems peaceful may not be so always. Will to-morrow be like to-day? And if trouble should arise, what a responsibility would fall



upon the Government if a conflict were engendered through the absence of unity of powers and views.

They add, too, that the Indian peoples have always been accustomed to an organisation which concentrates local powers in the hands of one man; that the bulk of them have still no other ideal; and that they prefer a justice which is near, prompt, and rendered by some one who knows them, to the more effectual guarantees afforded by a separate Court, which may be wise, but is distant and slow. It is only a fraction of the people, and a fraction which has no authority to speak on behalf of the mass, that protests against the fusion of executive and judicial functions; and the protests of these men have an object which is only too clear, to furnish them with political grievances against British rule, and to obtain the creation of new posts of which they would certainly get their share. Finally, those who hold these views point out that if civilians occasionally make mediocre District Judges, by reason of their want of legal attainments, barristers coming out from England at the age of about thirty-five would be infinitely worse, owing to their lack of knowledge of the people and ignorance of the vernacular.

Having thus set forth briefly, but I hope accurately, the contentions as regards the separation or concentration of powers, I propose, before giving my own opinion, to indicate the points which are of most practical interest. The concentration of powers was for a long time very great; but to-day, over the greater part of India, separation has gained ground. Civil suits are confided to a separate judiciary, which also deals with grave criminal cases, while the Collector does little magisterial work himself, although he can exercise a considerable influence over the other magistrates of the district. He also exercises certain functions which are

practically of a judicial character in revenue and fiscal matters, and he has a certain control over the police. In some provinces, and notably on the north-west frontier, in Upper Burma, in Assam, and, to some extent, in the Punjab, the Collector's criminal and judicial functions are, however, considerably wider. In Bengal, on the other hand, rent suits are dealt with by the civil Courts, and not by the revenue staff, and the separation between the executive officers and the judiciary is emphasised by the fact that a civilian has, at a certain stage of his service, to choose definitely between judicial and administrative work. It should be noted, too, that this latter system is now being applied in other provinces.

The progress thus made does not, however, satisfy the reformers. They demand an absolute separation of functions, the Collector and his assistants being confined to revenue work and such police and preventive functions as are necessary to secure the peace of the district, while the regular magistracy should (they hold) be entirely independent of him. As already stated, the Government of India is about to take steps in this direction in Bengal and Eastern Bengal; but the new organisation has not yet been elaborated, and it remains to be seen what the actual results will be.

Now for my own opinion on the questions at issue. The present organisation of justice in India violates all theoretical rules. It does not give the parties to cases the guarantees which civilised peoples now demand. Even where a separate judiciary has been organised, the judges, or at least those of them who belong to the Indian Civil Service, enter on a judicial career without the legal training indispensable therefor.<sup>1</sup> Moreover, a

<sup>1</sup> The Government of India is now, however, taking steps towards giving civilian judges some special training.

judicial career is less attractive, and ordinarily less lucrative, than an executive one, and consequently attracts less able officers.<sup>1</sup> The judges, too, obtain their promotion from the executive, and consequently cannot feel themselves entirely free in matters in which the interests of the Government are concerned. The same remark applies, with greater force, to the executive officers who deal with magisterial or *quasi*-judicial work.

Where, again, there is almost entire concentration of powers, there is no adequate guarantee either of independence or competence. The load of his work makes the Collector-magistrate-judge a mere machine.

Nor do the High Courts themselves afford absolute security. A proportion of the judges are barristers, usually appointed in England, and, as a class, they are competent, though there have been unfortunate exceptions; but the civilians and the native pleaders, who form about two-thirds of the whole, and whose appointment practically rests with the Local Governments, may be—I do not say they have been—chosen less on account of their merit than for their supposed suppleness or complaisance.

A system which lends itself to so many and such grave objections seems unworthy of maintenance; nevertheless, these criticisms are for the most part theoretical only. The Anglo-Indian Courts have not shown themselves inferior to those of any other country. They are not slower, more, costly, or less equitable. Miscarriage of justice is rare, even in criminal cases. The native press would be delighted to seize on judicial scandals, but it can mention very few. The ill-prepared civilians who judge in breathless haste are esteemed by

<sup>1</sup> The Government of India is endeavouring to remedy this by raising the pay of the District Judges.

parties and litigants. The High Courts are universally respected. The integrity of some of the subordinate native judges and magistrates is, indeed, suspected. These follow Oriental traditions, and are screened by the culpable indulgence of native opinion. Even among them, however, the improvement due to experience and study, the respect for their functions and for themselves which the example of the British teaches them, and the desire to maintain, or acquire, the esteem of their masters, is daily inducing a greater amount of morality and equity. Finally, the constant and watchful control which the superior Courts exercise over the lower, the calling up of delicate cases to a higher Court, the redress of faulty sentences, the censure bestowed on judges and magistrates who are often found in error, all serve to educate the judicial *personnel*, and to give to the people, in practice, the guarantees which theory denies them. The Anglo-Indian Courts have no doubt their defects, but the cause of these must be sought elsewhere than in the concentration of powers. For my own part I should find them in laws which, spite of honest efforts, are still badly adapted to the condition of the peoples whom they rule; in a too complicated procedure, the elaborate precautions of which benefit the rich and the cunning at the expense of the mass of the people; and, finally, in the prodigious multiplication of lawyers who are sucking the substance of the people.

British rule cannot cure all these evils, but what it can do is not to remain deaf to legitimate criticism. It would be easy for it to give some satisfaction to public opinion. It would certainly not succeed in disarming the regular opposition, which would only start fresh grievances, but it would put serious men on its side. The civilian judges are mediocre lawyers: let

them be required, after entering the Civil Service by competition, to obtain a solid legal instruction by frequenting schools of law, Courts, and barristers' chambers; and in compensation for this extra trouble, let them receive higher pay than the ordinary civilians. The judicial and magisterial *cadres* are too weak: let them be sufficiently strengthened to allow of the Collector being relieved of the duty of hearing appeals from subordinate magistrates.<sup>1</sup> Finally, let there be a clear distinction between an executive and a judicial career. That will not prevent the executive officer from obtaining his necessary ethnographic education; he can gain this elsewhere than in the Courts. As a Collector in charge of revenue and police matters he will maintain such unity of powers as is indispensable; the district administration will not be compromised; and the Anglo-Indian rule, with a staff which need not be much larger than it is at present, will succeed in obtaining an administration of justice worthy of the executive.

A few words will suffice on another question which has been more than once discussed in India, that of substituting two or more judges or magistrates for a single person in the disposal of cases. At present such collective tribunals are only to be found among benches of honorary magistrates, and in the High or Chief Courts, where certain cases go before more than one judge, and others before a full bench. The question of a further application of the bench system was discussed at length in the Punjab in connection with the institution of Divisional Judges there.<sup>2</sup> It was decided, however, to

<sup>1</sup> The Royal Commission on Decentralisation in India has recently recommended that such appeals should be heard by subdivisinal magistrates.

<sup>2</sup> The Divisional Judge of the Punjab corresponds, although he has a larger territorial jurisdiction, to the District and Sessions Judge of other provinces. The Punjab also possesses District Judges, but their functions are those exercised by superior magistrates and subordinate judges elsewhere.

have single judges only, and the same decision was come to later in Burma. It is not well to trust to the light of one man only, say some. It is better to rely on the responsibility of a single man, is the general English reply. One man Courts are their rule, and I cannot say that they are wrong.

## SECTION VIII

### *Europeans and the Indian Courts*

Of all peoples, the English are the least disposed to allow themselves to become the slaves of formulæ; nor have they any superstitious regard for uniformity. They have Courts composed of one judge, and Courts composed of several. They have laws of all kinds, and of all sorts of origin. Their Codes are in principle applied to all subjects of the Crown in India, whether British or native, but they are aware that such a uniform application would lead to grave inconvenience, and they deliberately infringe their own system. An instructive example of this is furnished by the situation of Europeans in respect to the Indian Courts.

During the early period of the British settlements their law and procedure were all English. Later on, from 1773, there was a double system, English law and procedure prevailing in the Presidency towns, under the control of the Supreme Courts, while elsewhere the natives were subject to the Company's Courts and Regulations. British subjects had, however, the right to claim the application of their own law and procedure; and those who were not in the service of the Company would naturally avail themselves of this privilege, for they knew that the Company was jealous of interlopers,

and objected to their settlement in India, through fear of damage to its commercial monopoly and trouble with the natives. The Company, on the other hand, when it permitted Europeans in its service to settle in *mofussil* (interior) districts, required, as a condition, that they should allow any small suits that might be brought against them to be tried in the Company's Courts. This practice must have had fairly satisfactory results, for it was recognised, in a way, by an Act of Parliament in 1813, and by some subsequent laws.

The position, however, was materially changed by the Charter Act of 1833, which did away with the Company's commercial monopoly, and permitted the further settlement of Europeans in the interior, while at the same time it contemplated a recasting of the existing legal and judicial system. As we have seen, Macaulay came out to India, as the first law member of the Governor-General's Council, to prepare and accelerate the realisation of this project. At this time, whatever the previous variations may have been, the actual state of things with regard to Court jurisdiction over Englishmen settled in India was as follows:—Those in the Presidency towns were under the Supreme Courts, as a matter of course. Those in the *mofussil* were subject to the Supreme Courts, and to these alone, in criminal matters. If they had occasion to bring civil suits against natives, these would be dealt with in the Company's Courts, and they had also the option of submitting to the jurisdiction of these Courts in the matter of suits brought against them. They could, however, require such a suit to be lodged before the Supreme Court, where it would be dealt with under English law, and that however small the debt and however great the distance. Now the procedure in the

Supreme Court was slow, and the expenses enormous. Justice rendered according to English law was costly enough in England, but it was ten times more so in India. In Calcutta the ministerial officers attached to the Supreme Court made scandalous fortunes, while Macaulay said that in Madras the Court had left no one to ruin. Natives in the *mofussil* were deterred by the expense of litigation before these tribunals, with the result that Englishmen might, without danger, refuse to pay their debts.

Macaulay resolved to put a stop to these special privileges of British residents in the *mofussil*, and introduced a Bill placing them under the full jurisdiction of the Courts of the Company in civil and criminal matters. This idea of a uniform jurisdiction in respect to Englishmen and natives does not seem to have greatly stirred those who were primarily interested. The *mofussil* remained quiet: it was in Calcutta, where the local jurisdiction of the Supreme Court was to be fully maintained, that the protests arose. The Calcutta lawyers saw that the recent modification of the Company's Charter, and the opening of India to Europeans not in the Company's service, would attract a considerable number of Englishmen who would settle down in the districts, create material interests there, and have, some day or other, to defend these in a Court of law. The maintenance of the old privileges would reserve this *clientèle* for the Calcutta Bar, and its members did their utmost to maintain them, agitating by pamphlets, by speeches, and by violent and sometimes ridiculous demonstrations. Their line of argument was that English settlers in India maintained the full rights of Englishmen; that they owed no obedience to the East India Company; that the only laws binding on them



were those made by the British Parliament; and that Parliament, in modifying the Charter of the Company, had certainly no intention of placing the members of the conquering race on the same footing as the natives. The opposition of the Calcutta lawyers was so violent that Macaulay was obliged to give way as regards the criminal Courts, and to content himself with placing Englishmen in the *mofussil* under the jurisdiction of the Company's Courts in civil matters. This was effected by the so-called Black Act of 1836.

The right of British settlers to have recourse to the Supreme Courts when they were made defendants in criminal cases continued for another generation, and even after the Supreme Courts had been merged in the High Courts now existing. It was not till 1872 that they were definitely subjected to the jurisdiction of the *mofussil* Courts, and even then they were only to be tried by first-class magistrates or judges of their own race, while the penalties these could inflict were considerably less than in the case of Indians.<sup>1</sup> In course of time, however, the number of native judges and magistrates who were thus debarred from taking cognisance of cases against Europeans increased considerably. Natives had obtained admission to the Indian Civil Service, and were thus becoming District Magistrates and Sessions Judges, while it had been decided to transfer a certain number of these posts to natives not belonging to that service. Natives, too, were sitting in the High Courts, and were there as fully competent

<sup>1</sup> Thus a first-class magistrate could only inflict a sentence of three months' imprisonment on a European, whereas in regard to a native, his competence extended to two years. Similarly, the Sessions Court, which had full powers of sentence over natives, subject to confirmation of death sentences by the High Court, could only pass a sentence of one year's imprisonment on Europeans.

to deal with Europeans as with natives. Accordingly, in 1882 the Government of India brought forward a Bill, known as the Ilbert Bill (from the law member who introduced it, Mr.—now Sir Courtenay—Ilbert), which abolished the previous race distinctions, and made Europeans triable by any Sessions Judge or first-class magistrate, whatever his race. Macaulay in 1835 had met with opposition from the lawyers of Calcutta. Mr. Ilbert roused the indignation of Europeans all over India, including the Government officers, who held that the Bill would dangerously diminish British prestige. The Government got frightened, withdrew its original project, and patched up the mean, but singularly ingenious, compromise of 1884. Under this arrangement a European British subject could only be tried by a person who was a justice of the peace. The powers of a justice of the peace are specially conferred only on first-class magistrates who are Europeans; but District Magistrates and Sessions Judges are justices of the peace *ex officio*, and a native holding one of these positions would thus be competent to deal with a European offender. The latter might, however, claim a jury, not less than half the members of which must be Europeans or Americans; and though the punitive powers of the *mofussil* Courts in respect to Europeans were somewhat increased, they still remained much lower than in the case of natives.

It was thought that this solution would give satisfaction both to natives and Europeans; to the native holding high judicial office because it took away an invidious disqualification, and to the European because a jury clause gave him the guarantees that he claimed. The argument of the Europeans was that though in the Presidency towns they might be sentenced by single

High Court Judges or Presidency magistrates (who also are *ex officio* justices of the peace), whether these were Europeans or natives, they there had the protection of European public opinion. This was lacking in the *mofussil*, and it was necessary to protect the isolated European from the ignorance of race prejudice of the native judge. From another point of view, the law seemed to show equal distrust of European and native judges in the *mofussil*. But that was just what was intended; it was important that the native should not be able to say that he was specially disqualified. As a matter of fact, he inevitably saw through the subterfuge. A European offender was not bound to claim a jury, and when he did so it would be generally as a precaution against an Indian judge or magistrate. The expedient adopted had also some paradoxical results. A European brought before a District Magistrate might claim a jury owing to race feeling, or because he thought that the difficulties of empanelling one would lead to the case being taken to the High Court; but if he were placed before a European first-class magistrate and justice of the peace, he could not invoke this privilege. The definition of European British subjects is also so wide that it would include a Zulu!<sup>1</sup>

In short, although the law might pretend to level the distinction between European and native judges, it established the right of a European defendant to escape the jurisdiction of a native judge unless the latter were assisted by Europeans as jurymen. That is a less exorbitant privilege than the one Macaulay fought against, but it is a privilege all the same. A European British subject, too, has a right, in certain circum-

<sup>1</sup> The term "European British subjects" includes colonial subjects of his Majesty of whatever race, and their children and grandchildren by legitimate descent.

stances, to the application of the English Habeas Corpus procedure, which cannot be claimed by any native outside a Presidency town. Nor are Europeans living in Native States subject to the criminal jurisdiction of the State tribunals; they must be dealt with by British Courts.

## SECTION IX

### *Judges and Lawyers*

A judicial system must be tested by the character of the judges as well as by the laws which they have to administer. I have spoken fully as to the laws of India; it is a more delicate matter to pronounce an opinion on the judicial *personnel*. This is far from being homogeneous, and the natives are in an immense majority. The lower civil and criminal Courts—those of honorary magistrates, stipendiary magistrates of the first, second, and third classes, district munsifs, and subordinate judges—are manned almost entirely by natives, who belong to what are termed the “Subordinate” and “Provincial” Services.

The English element here consists mainly of young magistrates who are also executive officers, and who are serving their apprenticeship to higher functions, generally of an administrative character.

The highest *mofussil* Courts, those of the District Magistrates (Collectors) and District and Sessions Judges, are mainly filled by Englishmen belonging to the Indian Civil Service. But they include a fair proportion of natives, who either belong to that Service, or have been specially selected from the “Provincial” Service.

Finally, we come to the great central Courts—the High Courts, the Chief Courts, and those of the Judicial

Commissioners. The Judicial Commissioners usually belong to the Indian Civil Service. Of the High Court Judges, one-third must be British barristers, and one-third Indian civilians, while the remaining third are usually native lawyers. The Chief Courts are recruited in a somewhat similar way. The barrister judges, who may be barristers of England or Ireland, or advocates of Scotland, must have been practising barristers for not less than five years; but, as a matter of fact, those appointed have usually had a much larger experience. The late Chief Justice of Calcutta had practised as a barrister for seventeen years, and Sir Lawrence Jenkins, who has just succeeded him, was a barrister of thirteen years' standing when he was first appointed to be an Indian judge. The Chief Justice of a High Court must always be a barrister, but this condition is not exacted in the Chief Courts.

The Chief Justice of the High Court is always a great personage. In Calcutta, for instance, he takes precedence next to the Viceroy, the Lieutenant-Governor of Bengal, and the Commander-in-Chief; and the puisne judges also rank very high in the official hierarchy. They are appointed by the Crown, on the advice of the Secretary of State for India, and can only be removed by him.<sup>1</sup> The independence and integrity of the barrister judges have never been disputed, though they are sometimes justly reproached with ignorance of the opinions and character of the peoples of India. Their want of knowledge is, however, tempered by the fact that they have experienced civilians and natives of India as colleagues.

The civilian members of the High Court are chosen

<sup>1</sup> The conditions of appointment and removal are the same for the non-barrister judges.

from among the District Judges. I give, as an instance of the career of a civilian High Court Judge, that of Mr. Justice Crowe, formerly a judge of the Bombay High Court. He entered the Civil Service in 1867, and during his first five or six years was employed on executive work, and took a share *inter alia* in the production of the *Bombay Gazetteers*.<sup>1</sup> In 1872, when he had already gained some experience of men and things in India, he adopted the judicial career, and became first an assistant, and then a District and Sessions, Judge. When he was finally called to the High Court in 1900, he might well claim that no one was better fitted to furnish his barrister colleagues, who might be more skilful jurists, with accurate information on the economic and social conditions of the people with whom they had to deal. The service of nearly all the civilian members of the High Courts gives them similar claims. In only one or two cases would it appear that judges of this Service have owed their appointment to favour rather than to merit, and these cases excited indignation.

The other members of the High Courts may be, and generally are, Indians—Hindus or Muhammadans.<sup>2</sup> They are usually *vakils* who have practised before the High Courts, and occasionally include jurists who have won a prominent position by economic or political work, as, for instance, the late Justice Ranade of Bombay, who was honoured throughout India, and Mr. Justice

<sup>1</sup> The *Gazetteers* are official publications which the Government of India, and the Local Governments, publish at intervals, and which deal with the physical aspects, population, history, ethnography, administration, and economic conditions of districts and provinces. These publications are of great value, and among their writers and editors have been men of high reputation—the late Sir William Hunter, for example.

<sup>2</sup> The Muhammadans have recently complained of the undue predominance given, as they allege, to Hindus.

Chandavarkar, at present a member of the Bombay High Court. The dignity of their life, the suppleness of their intelligence, and the extent of their legal knowledge place them on a position of absolute equality with their European colleagues, and it happens every now and then that a native officiates as Chief Justice.<sup>1</sup>

These High Courts offer the public guarantees equal to those of any tribunal elsewhere. They have both original and appellate jurisdiction, and their work is heavy, but the members, as a rule, are not old, and a healthy existence, in which sport finds a place, prolongs their youth and their activity.

Their pay, though not so high as in bygone years, is still considerable. The Chief Justice of Bengal draws Rs. 6000 a month; those of Madras, Bombay, and Allahabad Rs. 5000; and all the puisne judges Rs. 4000. They can get a pension after eleven and a half years' service, and this amounts to £1800 a year for the Chief Justice of Bengal, £1500 for the other Chief Justices, and £1200 for the puisne judges. Formerly there was no age limit, but a judge has now to vacate at the age of sixty. This is a wise measure, although it lends itself to the criticism that a barrister or pleader judge who is thus retired may resume practice before the High Court, with the prestige and special advantages which his judicial experience has given him.

The civilian judges of the *mofussil* may be styled improvised judges. Drawn from a service whose main duties are executive, they have, when they enter it, only a moderate acquaintance with criminal law. On arrival in India, and as soon as they begin to understand the language of their district, they are made magistrates

<sup>1</sup> While the permanent Chief Justice must be a barrister, his place, if he be absent on leave, is taken by the puisne judge of longest standing, who may consequently be a civilian or a native lawyer.

of the third class; and that, in my opinion, is a very questionable step, for when justice is administered by young men, who are usually both inexperienced and severe, it tends to become unjust. They gradually rise in rank, receive powers of the second and then of the first class, and finally become District and Sessions Judges, either directly or after some apprenticeship as assistant judges. As criminal judges they are efficient, since long acquaintance with the Penal and the Procedure Codes and with the police has given them considerable experience. As civil judges they have everything to learn, but they are assisted by the knowledge they have gained as executive officers, and in their dealings and intercourse with the people, so that, though their abstract knowledge of law may be very defective, they end by making fairly satisfactory judges; while some of them in time enter the portals of the High Court, and there hold their own very fairly with the barristers.

Nevertheless it is permissible, and even necessary, to state that neither the barrister nor the civilian judges give full satisfaction. The barristers who quit the mother country for the Indian Courts have occasionally had but a poor success as lawyers. The civilian judges, again, are almost unanimously held not to be the pick of the Indian Civil Service. "It is not sufficient," said a judge of the Chief Court of the Punjab in 1882, "to make good laws. You must have good judges, and they must be sufficient in number as well as in learning." Here is a point on which the Indian district Courts are open to reproach. In a country where, as in England, jurisprudence is constantly adding to and modifying the statute law, the judges ought to have sufficient legal knowledge when



they are appointed, and should not be so hard-worked that, while they may dispose mechanically of cases and suits, they cannot learn from their daily tasks and acquire that happy experience which, combined with study, makes the strength of a judiciary. Stricter selection at the outset, and increased leisure subsequently, are the indispensable conditions for the improvement of the judicial *personnel* in India. The career is an honourable one, and the emoluments are satisfactory. The young officers of the Indian Civil Service, from whom the District Judges are recruited, commence with a pay of about Rs. 400 a month, and, as District Judges, may rise to Rs. 2500 or even Rs. 3000 a month, while a select few obtain higher remuneration as Judicial Commissioners or as members of Chief or High Courts. Such prospects are sufficient to justify the Government in showing some exigency as to qualifications.

The natives have a preponderating share in the administration of justice, for they have a practical monopoly of all the lower Courts, civil and criminal. Nearly all the subordinate judges and district munsifs who administer civil justice are natives. So are nearly all the second and third class magistrates, and a large majority of those of the first class. Natives may rise in these capacities to a pay of Rs. 600, Rs. 800, or (occasionally) of even Rs. 1000 a month, and their pensions are correspondingly liberal, especially if we compare these emoluments with the simple character of their lives and the salaries formerly given by princes of their race. Nor is this all. The competitive examination for the Indian Civil Service, and the "Provincial Services," have led some natives to the position of District and Sessions Judge, while they are entering the

High Courts and the Chief Court of the Punjab in increasing numbers.<sup>1</sup> The place which they occupy in the judiciary is thus very considerable, and, to speak only of the dead, the High Courts of Calcutta, Bombay, and Madras have been honoured by the presence of men like D. N. Mitter, Ranade, and Muttasami Aiyar.

Native ambition is, however, not satisfied. The universities are constantly turning out new candidates, who, as soon as they get their degrees or other diplomas, seek public employment, and knock at the doors of the Government of India, which finds difficulty in resisting the pressure. It has to resist, however, owing to financial reasons and the fear of giving rise to objections on the part of the English. Moreover, in spite of all the progress they have made, the subordinate Indian judges do not yet afford the public such full guarantees of integrity as are offered by the European judiciary. Macaulay relates in his letters that his own servant had offered a bribe of Rs. 20 to a native magistrate, and that this had been accepted. That was in 1836, and though seventy years have passed since then, it cannot be said that every native judge and magistrate is now proof against temptation. The contrary is shown by many official documents, and even by the public press. No doubt this evil is exaggerated; the European chiefs who supervise the native judiciary declare that this is so; and their opinion is supported by the constantly improving education of the judges, and the advance in moral standards. Nevertheless, it is maintained that the native population persists in scepticism as to their integrity. If a native had to choose between an Indian

<sup>1</sup> The Burma Chief Court does not, as yet, contain a native member.

and a European judge he would not hesitate. He would, it is said, hold that although the Indian might be more alive to the actual facts, the European would be more honest, and would give a juster decision. For my own part, I doubt whether this is the real opinion of the population. It seems to me more likely that they would hold that the European, being a stranger to local quarrels and to the rivalries of caste and religion, has more opportunity for remaining impartial; that he has a firmer character, and is less accessible to threats or influence; and, finally, that since he is more learned (witness the proofs of his knowledge afforded by railways, telegraphs, and irrigation canals), he is more likely to give a good sentence. If, however, we admit the moral inferiority of the native judiciary as being general and proved, their disabilities in this respect will be gradually diminished with the advance of education, and the increasing respect for themselves and their offices which the natives will obtain from contact with their European colleagues. They have already shown undoubted success as lawyers; they will be equally successful as judges when their professional conscience equals their knowledge and their subtlety.

If lawyers are, as is alleged, the auxiliaries of justice, justice in India has no lack of allies. Lawyers of all classes—barristers, attorneys, native pleaders (*vakils* and *mukhtars*)—swarm around every sort of tribunal, from that of the tahsildar or district munsif to the High Court. Their presence is not an unmixed advantage, and many Englishmen and Indians think that the Government would have done well to limit their number, if not to put an end to their existence. It has, indeed, had thoughts in this direction, and it has endeavoured to keep them at arm's length in frontier

provinces such as Baluchistan.<sup>1</sup> But if you forbid authorised pleaders, you soon bring about the intervention of men of shady character, who are not under the control of the Courts. Consequently, it is usually held to be a lesser evil to allow professional lawyers as intermediaries.

The Indian, too, has confidence in such a lawyer, and in the assistance he can obtain from him. He thinks that if he, poor man, were left with no assistance but the justice of his cause, he would not be heard. Some go so far as to say that the presence of a lawyer frightens corrupt judges, and in 1879 a distinguished Indian member of the Viceroy's Legislative Council, Sir Sayyad Ahmad Khan, maintained that a native could not plead his cause alone, and that if it were badly presented it would be badly decided. The Indian judge, he said, is not sufficiently subtle to get at the truth of things unaided; the collaboration of a lawyer is indispensable.

In any case, the lawyers abound. At Multan, in the Punjab, I found that there were 30; at Hyderabad, in Sind, more than 20; at Gujranwala, a small Punjab town, 25; at Lucknow, 300; at Poona, 50; while in Bombay, Calcutta, and Madras there are legions of them, of all grades, from the *mukhtars*, who have very small qualifications, and who are only allowed to practice in the lowest Courts, to barristers-at-law, who have obtained their qualifications in Great Britain. And a study of the official *Gazettes* shows that the Indian law schools are preparing fresh swarms—ten

<sup>1</sup> The Royal Commission on Decentralisation in India, in recommending the establishment of village benches (*panchayats*) for the local disposal of petty cases, recommended also that pleaders should not be allowed to appear before these bodies, and was supported in this opinion by a number of influential native witnesses.

times as many as are really required. The education of the young Indians leads them to the Bar, either directly or as a consequence of failure in the examinations which lead to administrative employment. The only remaining career which they consider honourable is to be a pleader and to attend the National Congress.<sup>1</sup> The career is a tempting one. It may produce money and influence, by political agitation or by proof of professional aptitude.

The lawyers present a curious spectacle in an Anglo-Indian Court. In the provinces, and especially in the lower Courts, most of them are natives. Their garb is somewhat unconventional. Sometimes it is a pure native costume, which may occasionally be elegant and attractive; sometimes a sort of semi-uniform, a long grey or brown coat, loosely adjusted to the figure, and covering rather doubtful linen. Some wear robes; others are in ordinary European dress; but all, or nearly all, affect gold spectacles as a mark of dignity. A number of them are barristers who have lived in London, and assume an attitude which their talents do not often justify.<sup>2</sup> Before the High Courts English barristers and

<sup>1</sup> An intelligent young lawyer of Poona whom I questioned in 1900 as to the large number of pleaders there replied as follows: "The great European commercial houses would not admit us as associates. We should like to be officials if we could hope to equal the career of Mr. Bandharkar in education and of Mr. Ranade in law." (Both these were Poona Brahmins.) "But who can claim such a lofty destiny? We own lands, but we do not cultivate them ourselves. We have studied, however: we have entered a road which must give us an outlet. Consequently, we are almost forced to make ourselves pleaders. It is a liberal profession, and is held in greater esteem than that of medicine."

<sup>2</sup> The barristers are not necessarily men of greater ability or larger legal knowledge than the *vakils* who pass through the Indian law schools. The qualifying examinations for a barrister are not difficult. The chief obstacle to Indians is, apart from caste difficulties, the expense of attending a lengthy course of three or four years in the English Inns of Court. To give India a thoroughly good Bar, it would be desirable to require would-be barristers to carry out their practical studies in India, and then to go to London for a course of advanced theoretical study.

native lawyers meet in professional rivalry. Here the dress is more formal, and the merit of the pleaders greater. A good English barrister, however, can still more than hold his own.

The profession is so crowded that many of the pleaders can hardly earn a living wage, but they remain at the Bar, some for fear of doing still worse elsewhere, others fortified by the hope that success will come later, or that they may obtain a place in the subordinate judicial service.

The fees vary, as in Europe, according to the importance of the case and the talents of the advocate. Beginners earn hardly anything. For India as a whole the average earnings would be about Rs. 200 a month. In the large towns the figure is of course greater: the Karachi average may be taken at Rs. 500, and that of Bombay at Rs. 1200 a month. But the heads of the Bar make great fortunes, and may earn up to Rs. 10,000 or Rs. 15,000 a month in a city like Calcutta or Bombay, while even in places of less importance their earnings are large enough to give point to the saying of the peasants of the Punjab that there are three great eaters of the profits of the land: the treasury, the money-lender, and the lawyer.

## SECTION X

### *General Results*

I have indicated in the preceding pages the criticisms to which the administration of justice in India has given rise. Really my points resolve themselves into two, that justice is too slow and too costly. Its slowness is very evident. The Chief Justices of the High Courts

have yearly to declare that were the current year to bring them no fresh cases, they would still be occupied for some two years in clearing off arrears. Even in cases which ought to be rapidly disposed of, official statistics show that the usual duration is thirteen or fourteen weeks. Another official document gives the following statistics : the average duration of uncontested suits in the inferior Courts varied from 26 days in the Punjab to 76 in Bombay. In suits which were contested the average ran from 37 days in Upper Burma to 179 in Bombay, while the average duration of an appeal was 225 days. These delays, and the expense which they involve, so discourage parties that they occasionally prefer to have recourse to private arbitration. What could be more unsatisfactory than that a criminal should occasionally have to wait for months before his fate is decided, or that the claimant to an inheritance should have to battle for it for years? Efforts are made to reduce the duration of cases, and every now and then more expeditious methods are suggested, and special judges are appointed to work off arrears. The weak point of the system is to be found in the smallness of the judicial *personnel*. The High Court of Calcutta, for instance, which is a Court of original jurisdiction for the metropolitan city and a Court of Appeal for the eighty million people of Bengal, Eastern Bengal, and Assam, has its maximum strength fixed at fifteen judges. The High Court of Allahabad, which deals with thirty-seven million people, has only seven judges, and the Chief Court of the Punjab five judges for twenty million people. To have single District and Sessions Judges for districts with an average population of 900,000 is an error of like character. The *cadres* ought, therefore, to be enlarged; but it has become an official dogma in

India that a great deal of work can be done with a small staff. The method is no doubt a good one, but it ought not to be carried to such an extreme that the activity of the official develops into feverish agitation. The Government of India has now, however, made this a question of *amour propre*. It has so often taken credit for the small *personnel* with which it administers a vast empire that it would regard it as a confession of impotence to increase this largely. The Government of India is, again, over-sensitive on the score of economy, or, rather, like all Governments, it is prodigal in some directions and parsimonious in others, and the administration of justice comes into the latter category. As a matter of fact, justice costs it nothing, for the fees that it receives from civil litigants suffice to meet the expenses of the criminal tribunals. It ought to have more judges, and to pay some of them better. One seems justified, too, in assuming that (apart from the lawyers and certain wealthy men who prefer an elaborate judicial system, even though it be slow and expensive) the bulk of the people regret the simplicity and rapidity of the justice of bygone days. When the British conquered the Punjab in 1849, that great statesman, Lord Dalhousie, placed the new province under the administration of a board of three high officials, including John and Henry Lawrence, whom he charged, among other things, with the organisation of justice. The general instructions which he gave them are noteworthy: "You have," he said, in substance, "to deal with a primitive and simple population, which does not understand the complications of procedure. Give them a system of justice which will satisfy common sense. Avoid technical terms and methods, circumlocutions and obscurities. Simplify and abridge law and procedure,



and endeavour to check litigation. Constitute tribunals which shall not be steeped in formulas intelligible only to professional lawyers, and let them be easily accessible. Let every litigant be able to claim his rights and plead his cause in the presence of his adversary." And the two Lawrences, who were respectively endowed in a very high degree with sympathy and good sense, did, in effect, constitute in the Punjab a system which was perfectly adapted to local circumstances. The rules regarding evidence and proof were simple and liberal; a large place was given to arbitration; and steps were taken to obtain due knowledge of local customs. The procedure prescribed had no claim to theoretical correctness, but it brought together parties and their witnesses, and a decision followed promptly. The natives found that they had always to deal with the same man, for their Collector (Deputy Commissioner) was at the same time the District Judge. Nothing suited them better.

Later on, however, under the influence of a desire for uniformity, and with the idea of giving greater guarantees to the public, the province was subjected to the rules of the Civil Procedure Code. A Chief Court was created, in imitation of the High Courts of the older provinces, and under its influence formalism rapidly developed. Judgments were set aside for technical informalities. Preference was given, in evidence, to registered documents, the character of which was not appreciated by the people. A standard of proof was required to which the population was not accustomed, and cases were decided according to strict law, and no longer by equity. Formerly, for instance, when land had been pledged for debt under onerous conditions, it was presumed that the borrower had been prejudiced by ignorance, or moral pressure, and the law

was softened in his favour. But the Indian Contract Act of 1872 required adherence to the letter of contracts, and the Chief Court's judgments made this method rigid.

The legal revolution thus accomplished in the Punjab had been carried out earlier in the older provinces, and the High and Chief Courts have stereotyped a jurisprudence which rests on the strict and literal interpretation of the law. In the older provinces this evil is irremediable: legality and formalism have triumphed, and the people are resigned. But in the new provinces, along the frontiers, where a Native policy ought to conciliate the indigenous tribes by an understanding of their customs and indulgence to their desires, it is perhaps not too late to return to the old simplicity. One is struck by the fact that in India, generally, a condemnation passed by a British tribunal is not held by native opinion to involve moral degradation. I do not mean that even on the frontier the natives despise British justice; not at all. They consider it admirable, and prodigious; but not suited to them. What they want is a judge who will always be the same—a man whom they know, who is easily accessible, who will hold his Court in the open air (if that be convenient), who speaks not a conventional vernacular, but their real language, and who can, without delay or formality, pronounce a sentence which they will accept. An immense number of suits now brought before the Courts are of a very trivial nature, and do not need the precautions now taken in their disposal, and the consequent cost. Not only on the frontier, but throughout the whole country, a simplification of justice would, I think, be agreeable to the mass of the people. Most of their suits and cases could be dealt with by local *panchayats*

(councils of elders), while in the more important cases native society would welcome the association of native assessors with British judges even in civil cases.<sup>1</sup> Finally, as it regards rapidity of disposal as very important, it would welcome peripatetic tribunals.

The English are quite aware of criticisms and desires of this character, and, as I have said before, it is almost always from their own talk and their own publications that one learns the defects in their administration. In their endeavour to remedy these they will, however, never be fully successful. They have made the mistake of introducing—in the belief that they were working for progress, and following the dictates of their own conscience rather than the wishes of the natives—guarantees and formalities which involve cost and delays, and which are distasteful to all but a small class of the population. The British Government has, in the course of its history, often retraced its steps, but that was at periods when it did not pretend to a thorough knowledge of native sentiment, which it now claims to have. To-day it would condemn itself, and all that it has done for the last fifty years, if it were to simplify the procedure which it has deliberately evolved, while it would at once rouse the strong opposition of the most vocal element in the population, the lawyers and the so-called educated classes. Where I (like the common people) see the desirability of simplification, the Government would hold it impossible to withdraw guarantees once given. While the earth goes round the sun, the nation which has produced a Hume, and created constitutional government, will not resign itself

<sup>1</sup> The Royal Commission on Decentralisation in India has recommended the establishment of such *panchayats* in the villages, but has pointed out the obstacles which must be reckoned with, owing to the prevalence of factions and caste feeling.

to substitute for the multiple precautions and the minute control of modern procedure the rapid and dictatorial decisions of a single man. Justice will never again shelter itself under the oak of St. Louis, and in continuing to evolve its judicial administration in accordance with the ideas of modern Europe, the British Government must inevitably advance further in the direction of separate executive and judicial functions.

## CHAPTER VI

### THE EDUCATIONAL PROBLEM

#### SECTION I

#### *Introductory and Historical*

ALL colonising nations are sooner or later faced with the problem of the education of the natives. It is a grave, a difficult, one may say a distressing, problem which cannot be evaded, and which involves a conflict between interest and conscience.

If conquerors refuse to subject peoples the benefits of that instruction which civilised nations value so highly, this amounts to an avowal that, in establishing themselves in savage or backward countries, they have had no thought of the general interests of civilisation. They have only had in view their own material interests, and the advantages to be obtained for their commerce and industry from a new, and often rich, country. If, on the other hand, to escape this reproach, or actuated, it may be, by a sincere desire for the diffusion of civilisation, they resolve not to make education a Western monopoly, but to impart in it a greater or less degree to the natives, they must realise that one cannot set bounds to knowledge. Once started on the path of learning, the native peoples are not likely to stop at any arbitrarily fixed stage. They will

go on further and further, until the day comes when they have become the equals and rivals of their former teachers, and they will then deny the legitimacy of a foreign dominion.

It is to the credit of the civilised peoples that, in this conflict between interest and duty, none of them has long remained deaf to the voice of honour. Sooner or later, according to the temperament of the ruling race, local circumstances, and the difficulties attendant on that pacification which is the first necessity of colonising nations, all have asked themselves whether they should or should not educate the natives under their sway, and all have replied in the affirmative.

But the decision of this primary question merely gives rise to a crowd of others, as important and difficult. I will indicate a few of these, without any pretension to making the list exhaustive. To what extent is the conqueror to turn schoolmaster? Is he to endeavour to influence the mass of the subject race—to infuse some elements of knowledge into an entire people, with the idea that each day has its own task, that time will do its work, that the fragments of instruction given to the fathers will cause these to desire greater knowledge for their children; and that in this way some genius may be produced whose arrival may be fraught with mighty consequences? Or, on the other hand, is it not better to deal only with a picked element of the population, so as to obtain there the subordinate officials whom colonising people find it useful and politic to recruit on the spot, or to shape the native auxiliaries of whom the agricultural, commercial, and industrial settlers have need? Apart from such utilitarian considerations, this method may also seem the best, and in the long run the most rapid, instrument for spread-

ing education. The mass of the people will surely acquire a taste for knowledge when they get visible evidence of the advantages which it brings to members of their own race.

This problem involves such grave consequences that every nation considers it afresh every fifty years or so, and on each occasion gives a somewhat different answer. When it has been determined for a time, a new question arises: What is to be taught these folk, whether it be the mass of the people or an *élite*? The answer is simple when they have not enjoyed any system of education, however elementary, before the arrival of the foreigner. But it becomes complicated when one has to choose between the system which already prevails, and which is inadequate both in principle and in application, and the education which the European peoples bring with them. How is one to reconcile (as a sound Native policy must seek to do) respect for the ideas, the traditions, and even the prejudices, upon which a people has subsisted, with the desire to introduce views and methods of which a constantly growing experience has shown the value?

Assuming this question to have been settled, is the system of education determined upon to be imparted by native or by foreign teachers?—a question which is specially embarrassing when, as will usually be the case, it has been decided to spread the knowledge of Europe. Native teachers will be more conversant with the mentality of their fellow-countrymen, with the limits of their intelligence, and with the best methods of awakening it. But as they themselves will have been recent pupils, will they not, of necessity, prove imperfect interpreters of Western science and civilisation, which can, at best, only be acquired by a process of slow

initiation? And if our knowledge has not been thoroughly assimilated by those who transmit it to their countrymen, will not the defective medium cause a failure which it will be difficult to repair?

Finally, programmes and professors having been settled, what language is to be used for conveying to the natives the treasures of knowledge—their own, or that of the ruling people? At first sight it seems clear that the decision should be for the vernacular. Assuming it to have been decided to employ foreign teachers, their number will necessarily be limited, and for men long accustomed to study, the acquisition, and even the full mastery, of a new language cannot be a serious difficulty. What an advantage they will have, too, if, while demanding from their pupils the forgetting of false notions, the sacrifice of false ideas, and a constant effort of will and intelligence, they can address them in their mother tongue, and thus win their confidence from the first. But language is a living organism, and not dead matter; and just as there is reason to doubt whether natives, however learned, intelligent, sincere, and devoted, can become efficacious interpreters of Western science, so, too, we have to ask ourselves whether the indispensable vehicle for conveying the elements of this science to the native mind must not be a European language, which alone possesses a sufficiently supple and extended vocabulary—one which has grown up concomitantly with the ideas which it expresses. On the other hand, the employment of a foreign language as a vehicle of foreign ideas involves the formidable obstacle that every lesson, whatever its subject, tends to become a lesson in grammar and translation. And this obstacle is but one of a thousand difficulties which the problem of educating a native



population produces. The object of the present chapter is to show how the English have dealt with this problem in India.

The first question, whether an attempt should be made to educate the natives, may be said to have received a definite answer in the affirmative about 1815. Some schools had at that time been opened by European missionaries, and the East India Company had told its then Governor-General, the Marquis of Hastings, that such steps might be dangerous, and lead to the creation of political aspirations which might one day place in jeopardy the rule of the Company. Lord Hastings replied, however, that it would be a betrayal of national morality to perpetuate ignorance for the sake of sordid political considerations, and from that time the principle of educating the people may be said to have triumphed.<sup>1</sup>

But, what sort of education was to be imparted? Some colleges had already been established by Warren Hastings or under his influence, such as the Calcutta Madrasa for Muhammadans (created in 1782) and the Hindu College at Benares (1791); but these institutions were consecrated to what was termed Oriental learning—the study of literature, philosophy, history, and religion from the Oriental point of view. After the above-mentioned decision of the Marquis of Hastings, further colleges were started by the Government and by missionaries; but they, too, were mostly of an Oriental character, or were intended (in the case of the missionary institutions) for the propagation of Christianity.

Matters remained in this stage, in spite of the demand

<sup>1</sup> The Charter Act of 1813 had also required the expenditure of a lakh of rupees a year on education.

of some of the natives for instruction in the arts and science of Europe, up to 1835, when a great change was effected under the impulse of the illustrious Macaulay, who, besides being law member of the Governor-General's Council, was also President of the Council of Education in Bengal. His opinion on the existing position was clear and concise: very little had been done, and that on wrong lines. He indignantly criticised the Oriental instruction given in the colleges, the books officially printed for use, and the complicity of the Government in the diffusion of error. "Our council," he said, "is obliged to print books which give artificial encouragement to absurd science, absurd metaphysics, absurd physics, and 'absurd theology.'" Starting from these premisses, and supported by two successive Governors-General, Lord William Bentinck and Lord Auckland, he completely triumphed over his adversaries, and obtained the recognition of the principle that Indians should be taught European science and civilisation, and through the medium of the English language. It necessarily followed that pupils were to be sought, not among the mass of the people, but in a special class. A number of the general questions indicated above were thus solved, and we shall have to consider whether the solution was a good one. To decide on reform, however, and to carry it out fully, are very different matters, and in India the English have always advanced with slow steps. In 1853, when the Company's Charter was renewed for the last time, it was found that education had progressed much more slowly than had been imagined, and in 1854 the Court of Directors, at the instigation of Sir Charles Wood, then President of the Board of Control, addressed the Governor-

General on the subject, in a despatch which may be rightly termed historical, and which evidenced new ideas, great breadth of view, and a disinterested policy. The Directors commenced by approving the methods already adopted—which were, however, to be more stringently applied—for giving education to the upper classes; but they proclaimed their intention of pursuing a further end which was even more important, viz. the instruction of the mass of the people, and the methods to be adopted to this end, towards which they were ready to sanction a considerable expenditure. The task of giving practical application to the famous despatch of 1854 fell to a Governor-General who has left a great name in India, Lord Dalhousie, and he threw himself into it with enthusiasm, for he, too, hoped for much from the spread of education, especially in the direction of improving the morals of the people, who might thus be weaned from such practices as the burning of widows and the marriage of children. Lord Dalhousie did all that he could to obtain success. A separate Education Department was created; training schools for teachers were established; the number of public schools was increased; and special efforts were made to encourage private schools by grants in aid. But to act on an almost inert population, which even then numbered 150,000,000 souls, is a formidable enterprise, requiring much money, numerous agents, and time. For a good many years the bold and active policy of Dalhousie produced very insufficient results. The defective recruitment of teachers, the lack of resources, the almost general indifference of the people—above all, the great Mutiny of 1857—all seemed to conspire against the success of that noble and arduous task—the diffusion of popular education—which he had

attempted. In 1868 one of Dalhousie's collaborators, Lord Lawrence, who was now himself Viceroy, had still reason to say that, among the dangers which menaced the stability of British rule in India, few were greater than those arising from the ignorance of the people. Some advance was made under the influence of Lord Lawrence, and his successor Lord Mayo; but progress was still so slow that, in 1882, the Government of India thought it necessary to have the whole system inquired into by a special Commission of twenty members, ten of whom were natives. The report of this Commission contained no less than 222 recommendations, of which 180 had been adopted unanimously. But here, again, the results were disproportionate to the goodwill and activity which had been displayed, and to the wishes of the Government. The Commission held that it was indispensable to educate the people; but that the poverty of a country, in which the average annual earnings were only some Rs. 20 per head of the population, debarred ambitious projects and new departures, and only admitted of the best possible application of existing methods. In fact, the practical results of this Commission, which had been mainly intended to develop the education of the masses, were chiefly in the direction of improving the education of the middle and upper classes—what the English call secondary or higher education. It would be unjust to imply that nothing has been done since 1882 for the development of primary education, for the creation of fresh organisms, and for the improvement of those already existing. But the task was vast and the difficulties colossal, and the Government had many other preoccupations, so that while we may regret the scanty progress made, we cannot strongly condemn it.

I shall apply myself in the succeeding Sections to a general review of the present state of education in India in its various grades, and I shall give special attention to the reforms energetically promoted by Lord Curzon, and to the criticisms to which these have given rise.

## SECTION II

### *Primary Education for Boys*

Primary education, as we have seen, was not organised in India till a system of secondary education had for long been adopted. There is nothing astonishing in that, since the original object of this so-called secondary education was to train up clerks and subordinate executive agents for the British Government. The State had here a limited task, and the classes to whom its education was offered were attracted by the prospect of Government employ. But to educate the whole people of a vast sub-continent is an immense task; above all, when the people themselves are indifferent. And even if the children had a taste for study, if they were pushed on by their parents, and if the Government gave its full support, a sound educational system would still be extremely difficult owing to the want of money and the lack of qualified teachers.

In the first part of the nineteenth century elementary education was not considered a State service. The primary schools which existed were, for the most part, private institutions, started by missionaries and others, and, owing to the Hindu caste system, those mainly intended for the lower classes were practically closed to the higher castes, and *vice versa*. The fees,

moreover, kept away pupils. In 1842 there were only 1400 elementary boys' schools, with about 30,000 pupils. In spite of praiseworthy attempts which had previously been made in the United Provinces and in Bombay, the real concern of the British Government with primary education may be said to date only from 1854. I have already referred to the famous despatch issued by the Court of Directors in that year. After indicating the necessity for improving the education of the upper classes, they pointed out that an even more important matter was primary instruction, which had hitherto been too much neglected. It was specially necessary, they held, to place the means of acquiring useful and practical knowledge within the reach of the great mass of the people, who were utterly incapable of obtaining education worthy of the name by their own unaided efforts. As I have said, Lord Dalhousie did his best to apply this instruction. He established a special department of education, founded public schools for the training of teachers, placed under the control of the Government a large number of the private schools already existing, and set himself to improve their methods. Their programme was to be directed to the teaching of reading, writing, arithmetic, and mensuration. Knowledge of these matters would, it was held, give the ordinary Indian a sufficient equipment for practical life. The efforts made were considerable, but great as was the enthusiasm of Lord Dalhousie in a cause which he justly deemed of the highest importance, progress was blocked by immense obstacles. Some of these were of a temporary character, such as the Mutiny of 1857, which for years concentrated the attention of the Government upon military, political, and purely administrative matters. Others were of a

more lasting character, and these I shall deal with later on. In 1870 the total number of primary public schools in British India was still only 16,500, with about half-a-million pupils.<sup>1</sup> By 1882 the number of schools had risen to 86,000, with over 2,000,000 scholars. These figures seem large, but become relatively small when we recollect that nowadays British India contains some 18,000,000 boys of school-going age. I have already mentioned the appointment of the Education Commission of 1882, and that its practical results led to the improvement of secondary rather than to that of primary education. Primary education has continued to advance slowly: in 1901-2 there were about 98,000 public schools with 3,200,000 scholars.

To what must we ascribe the extreme difficulty of organising primary instruction in India, and the scanty success of such repeated efforts? We Westerns, who live in the most civilised part of the world, and who, for the last century or more, have been convinced of the incontestable utility of the primary school, and of its influence as a factor in morality and civilisation, must endeavour, when we deal with the Indian problem, to realise the totally different state of things there. The Indian primary school does not exercise an attractive influence on the children of the country, save in relatively few cases, which ordinarily occur in schools directly maintained by the Government.<sup>2</sup> The schools lack space, air, light, and cleanliness: those in the most remote corners of our French provincial districts would seem palatial by the side of most of the Indian institu-

<sup>1</sup> The term "public school" in India includes all schools which are managed or aided by the State, or by local boards or municipalities, or which are recognised by the Education Department as competent to send up pupils for public examinations.

<sup>2</sup> Primary schools are, for the most part, aided or maintained, not by the Government direct, but by rural boards and municipalities.

tions. Often, too, there is no regular school building of any sort. The school is carried on in a dark hut or in an open court-yard, and the children squat round their teacher. Nor are the curricula much better. The simple educational programmes drawn up in 1854 and subsequently have undergone many changes for the worse, especially in the schools which have been created or controlled by the Government and its local agents. No proper care has been taken to adapt the teaching to the needs of native life. A school inspector not long ago made the following remarks: "The children seem far more intelligent out of school than in it. Why? Because at school everything is strange to them, and they meet nothing there that they knew before. A young villager knows most of the plants that he sees. He knows the uses to which domestic utensils are put. He can gather from the sky when it is going to rain. He knows, too, that for a wheel to roll properly it must be greased from time to time. Now these many aspects of practical life, the causes and relations of which he might learn, are entirely ignored at school, as if with the deliberate intention of withdrawing him from the surroundings in which he has lived. The school teaching endeavours to fill his mind with entirely new and strange ideas which, for the most part, he will never have occasion to apply." Primary school teaching, in short, if it is to become useful and attractive, ought to be brought much closer to life, and to what was intended in 1854. These defects have, however, been long emphasised. The English have the special merit of quickly discerning and confessing the errors of their methods: why, then, have they not reformed their primary instruction? There is more than one reason for that. The first is the mediocre quality of the primary



school teachers. These are practically all natives, and by no means the best among them. The small pay which they get, ordinarily Rs. 7 or Rs. 8 a month (and not more than Rs. 12, except in Bombay), is not, it may readily be conceived, sufficient to attract good men. Possessed of only half-developed minds, which have with difficulty received some rudiments of very elementary knowledge, these teachers are at most capable of repeating to their pupils what has been told to them. They cannot change the character of the lesson, even in the direction of simplicity. Nor have much better results been obtained by their undergoing courses in normal schools. A parsimonious policy prevents the enlistment of competent men, and the primary school teachers remain, as a body, far below their tasks. Another, and even more formidable, obstacle is that the schools charge fees. The dogma of our democracy—a questionable dogma, indeed, if applied too generally—that primary education ought to be gratuitous, has not been accepted in India. Mr. Gokhale, and other Indians of his school of thought, have, it is true, claimed in the Viceroy's Legislative Council and elsewhere the application of this principle of gratuitous education, from which they expect a large development of primary instruction. The English reply has been that the cost which this would involve to the State would be crushing to the Indian tax-payer, whose means are so small. Their concern for the tax-payer is, no doubt, praiseworthy, but one may well ask if judicious economies in other portions of the State budget might not permit of a more general endowment of primary education.<sup>1</sup> However that may be, the fact remains that education in the primary schools is generally

<sup>1</sup> The idea of making primary education free, at any rate in the towns, was suggested by the Government of India to the Local Governments in 1907, but the discussion has not yet evolved any practical results.

charged for. In the north of India about 15 per cent of the pupils are admitted free, but in the south the percentage is infinitesimal, and for the country as a whole it probably does not exceed 5 per cent. Unfortunately, too, the education thus sold does not find willing purchasers. Though the fees are usually very low, they are a serious burden on the purse of the native parent, and to induce him to undertake this burden, he would have to be convinced, as the French democracy is, for example, of the utility, nay, of the necessity, of education. In his eyes, however, education is useful and efficacious only when it leads to public office. That is the case with secondary and higher education, which is much sought after; but as primary instruction merely develops the mind, and does not open a career, it is little thought of and little desired. This might have been remedied by making primary education compulsory if not gratuitous, but so far from its being compulsory, it is not even adequately controlled. The Collector, as president of the district board, has a general responsibility for the schools. But he is so over-burdened with other tasks that he does little in this direction, and the supervision is left to the subordinate officers of the Education Department, or to an over-wearied beast of burden such as the tahsildar. Finally, the primary school succumbs to the competition of graver and sadder preoccupations, the fight for life and the struggle for daily bread. These give rise to almost constant cares, with which our Western peoples are no longer familiar. Floods or failure of rain, plague, or famine, too often compel the unfortunate Indian peasants to think of their bodies before they concern themselves with their minds. Such are the reasons which have caused primary education in India to give

much less favourable results than were expected from it in 1854, and again in 1882. On one point, however, it has caused no deception, it has cost the Government but little. It is difficult to obtain from Indian official documents the exact amount of expenditure from public funds on primary education ; but, so far as I can calculate, the total amount in 1901 did not exceed 120 lakhs of rupees, of which about half was directly provided by the Government of India and the Local Governments, and the rest by the local boards and municipalities. We must add to this, of course, the receipts from fees, subscriptions, and endowments. But the total is very small for some 98,000 schools with more than 3,000,000 pupils,<sup>1</sup> and these scholars represent only about 18 per cent of the boys of school-going age, *i.e.* 82 per cent are absent from the schools, while in France we should think an absence of 2 or 3 per cent unsatisfactory.<sup>2</sup> Here is another significant fact. The public educational expenditure is incurred, for the greater part, in the shape of grants in aid to schools under private management. Among the conditions of a grant in aid are : (1) That a school should follow the general curriculum approved by the provincial Education Department. (2) That it should be open at least four months in the year. (3) That it should possess at least four pupils able to read and write the vernacular language—4 pupils out of perhaps 40 ! The lower school classes are often really *crèches*, where the parents can deposit their children while they earn their livelihood.

<sup>1</sup> The Government expenditure on primary education has somewhat increased since the year mentioned in the text. In 1902, for instance, the Government of Lord Curzon gave grants amounting to 40 lakhs of rupees a year to the Provincial Governments for this purpose.

<sup>2</sup> The last Census, again, that of 1901, showed that in all India the proportion of persons able to read was 103 per thousand in the case of males, and 8 per thousand in the case of females.

A number of Anglo-Indians, however, hold that there is really nothing discouraging in all this. The English work for the future. They wish, first of all, to make native opinion regard the school as an ordinary institution; later on they will require the school to be attended. But to justify such a policy, the school must first prove its efficacy by the adoption of better methods and the recruitment of better teachers. That, it may be said, is already being accomplished in the primary classes of the secondary schools, which are in themselves numerous.

It should be added that Lord Curzon's reforms in university and secondary education, which will be dealt with later on, extended to primary education also, and that steps have been taken, in recent years, to make the primary school curricula more practical, as, for instance, by the inclusion of kindergarten methods and object-lessons. But such a change cannot produce real benefit unless it is applied by intelligent teachers.

### SECTION III

#### *Secondary Education*

As already stated, the British Government commenced with concerning itself with secondary education, with the main object of obtaining native auxiliaries for its administrative work. It should be noted, however, that what is styled secondary education in India corresponds really to upper primary education (*enseignement primaire supérieur*) in France, while the secondary education of France (*enseignement secondaire*) corresponds to the collegiate education of India. Secondary education in India has two branches :

the lower, given in "middle" schools or in the "middle" classes of high schools, and the higher, in the "high" schools proper. For the bulk of the pupils who attend these schools, the education they receive there is a final training, which stops in the majority of cases at the "middle" stage! Only a small minority go on to the colleges. It is thus a really important element in the educational system of India.

Up to 1854, secondary education had a higher scope than is now the case, since the colleges of the present day had not then come into being. Subsequently, with the establishment of these colleges, the secondary programme became more restricted, with the object of appealing to a larger class. The Government no longer desired simply to train officials. It looked to making the pupils of the secondary schools more useful members of society; and, as I have already stated, although the original object of the Education Commission of 1882 was the development of primary education, the actual advance obtained has shown itself much more in the secondary schools.

The groundwork of the present secondary training consists in the study of English, as a special language if not as a medium of general instruction, of the local vernacular, of history, geography, arithmetic, and mensuration; with the addition, at the higher stages, of algebra, geometry, elementary science, drawing, etc., and a "classical" language, *i.e.* Sanskrit, Persian, Arabic, or Latin. The principal question which the authorities had to solve in drawing up their programme was whether instruction should be given in English or in a vernacular, and this, as I have already explained, was decided in favour of English in the higher schools. There are, however, in Bengal and

elsewhere, a number of "vernacular" middle schools, in which instruction is given in a native language, and this method has been attended with satisfactory results. The general tendency, however, is to instruction in English, and this is the attitude even of enlightened natives, who are passionately attached to the study of the English language, which not only affords larger material advantages, but provides an easy means of communication throughout the whole country between men whose own languages are as different as those of Europe. We thus get the paradoxical result that it is the language of the conquerors which forms the bond between the conquered, and facilitates the diffusion of their common complaints and claims.

The whole course of secondary study may last for six or seven years, but clever boys go through the classes more quickly, and others leave before the end of the course, so that the bulk of the pupils remain only for about four years. Progress is tested by public examinations, which eventuate either in the matriculation of one of the universities or in a special school final examination. There are also some special secondary schools for the training of teachers.

It is difficult to praise the results of this secondary education, as regards its practical effect on the pupils, or even in respect of the number of these. The educational statistics of India are confused, and occasionally inaccurate, and distinctions between Government and aided schools, and "public" and private institutions, and the fact that a secondary school may also have primary classes leads to the production of figures which cannot be closely relied on. If we follow the statistics given at the close of the Education Chapter in the new *Imperial Gazetteer* we get the following results :—

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In 1870-1	there were	3146	secondary schools with	206,000	scholars.
„ 1881-2	„	4122	„ „	222,000	„
„ 1891-2	„	4872	„ „	473,000	„
„ 1901-2	„	5493	„ „	623,000	„

The majority of the schools and classes do not go beyond the middle standard. The middle schools in which teaching is given in the vernacular amounted to 45 per cent of the whole in 1886; but in 1901 only 27 per cent of the boys under secondary instruction were being trained in such schools.

Although the above figures show considerable progress, secondary education is still far from giving the results expected from it, and the British Government would find it advantageous to develop it further. Not that it has any special need to attract pupils who will serve to fill the subordinate ranks of the administration, for in India even more than in France, candidates for official posts are already innumerable. But the secondary schools are not merely intended to train public functionaries; they are looked to for the production of men who will develop agriculture, commerce, and industry. It is thought that such men, if scattered in increasing numbers over India, will show, by practical methods and example, the advantages of a system of education which goes so much beyond the small fragments of knowledge picked up in the primary schools. It is also hoped that the pupils who start active life from the secondary schools will differ from those at the colleges, where the system of education is again different, in not becoming (at least as a rule) discontented with the social and political organisation of their country, and a danger to British rule. The hope is rather that they will become pioneers of Western civilisation, and defenders of the established order.

It became evident, however, that if it were to attain such results, the system of secondary education needed a thorough reform, and in this, as in other branches of teaching, Lord Curzon endeavoured to apply the remedies which others had only spoken of.

The principal criticism levelled against the secondary schools, as against the Indian educational system generally, was that the curricula were too ambitious, with the result of encouraging superficial study, and that the education given was of too literary a character; further, that the employment of English as an instrument of teaching had been carried too far, resulting in lessons which degenerated into exercises in grammar and vocabularies, and to want of comprehension by the pupils. Finally, there was the usual vice of uniformity in methods and programmes.

An Educational Conference convened by Lord Curzon, and the inquiries which followed on this, led to the following results:—While the general principle of maintaining English as a vehicle of education was maintained for the higher classes, it was laid down that instruction at the lower stages should be given more generally in the vernaculars. The school teaching was to be more practical in character, and less dependent on the requirements of the universities, while efforts were to be made to promote studies of a practical, as opposed to a literary, character; to encourage technical and industrial education, to provide better training for the teachers, and to strengthen the inspecting staff. The general principle was, in fact, to be one of specialisation and distinction of programmes, with due regard to the circumstances of different districts and provinces. High-school training was to be an end in itself, and not merely a basis for



collegiate education, and the same principle was to apply as between the middle and the high schools. It was to be realised that the needs of rural areas and of towns were not the same, and that the Government should undertake the direct management of a secondary school in each district, as a model to the rest, while higher standards were exacted from private schools as a condition of grants in aid. Finally, the principle of public examination, which is carried to as absurd a pitch in India as in Europe, was to be modified, and the university matriculation examinations were no longer to be regarded as the one goal of high-school teaching.

Such, briefly, are the reforms which have been attempted in the matter of secondary education. It is as yet premature to judge of their scope and efficacy. Their application seems to have been somewhat dilatory, and they are, in any case, of too recent a date to have produced lasting results.

## SECTION IV

### *Collegiate Education*

The Indian universities have as yet been little more than examining bodies. The instruction which is tested by the university examinations is given in separate affiliated colleges; but the universities exercise much influence over these, not merely by their examinations, but by prescribing courses of study, and by permitting, or refusing to permit, a college to submit its pupils to the university tests.

There are five universities in India. The three oldest, those of Calcutta, Madras, and Bombay, date

from 1857; the university of the Punjab was created in 1882; and that of Allahabad, in the United Provinces, in 1887. These universities have, consequently, immense spheres of influence. That of Calcutta, for instance, extends over Bengal, Eastern Bengal and Assam, Burma, and part of the Central Provinces, Rajputana, and Central India. The Punjab University differs from the rest in that it endeavours to develop Oriental as well as Western learning, and gives diplomas which can be obtained without any knowledge of English. The number of colleges which teach merely Oriental learning is, however, very small. In 1901 there were only seven of these for all India, giving instruction in Sanskrit, Persian, or Arabic, or in more than one of these tongues, and they only had about 1000 pupils. The other Indian colleges, and (with the exception noted in the Punjab) the universities on which they depend, are devoted mainly to the teaching, by Western methods, of the letters, science, and arts of the West.<sup>1</sup>

Such a conception is, I think, open to criticism, and it has had certain evil consequences, notably that at the present day England has not achieved the position which she ought to have attained in archæological, theological, and philosophical studies relating to Asia, or even to India.

The universities are isolated and independent bodies. They are subject to some general control by the Government, but this is mostly of an indirect character, and they are not under the Director of Public Instruction of the province in which they are situated. They act,

<sup>1</sup> Some of them, however, combine Western education with a distinctly religious organisation, as, for instance, the Anglo-Muhammadan college at Alighur, and the Hindu college founded by Mrs. Besant at Benares; but generally Oriental civilisation receives very scanty attention.

moreover, at their own discretion, with very little regard to what is being done in the sister universities. Independent action of this sort has its advantages, but it is pushed to excess when the policy of one university is at variance with that of another. Each university has a chancellor, a vice-chancellor, and a senate. The Governor-General is himself the chancellor of the Calcutta University, while in the others the post is filled by the Governor or Lieutenant-Governor of the province. The vice-chancellor is nominated by the chancellor, and is very often a judge of a High Court. The senate consists of "fellows" who are, for the most part, nominated by the chancellor (*i.e.* by the Government), but a certain number are elected by Masters of Arts, or other specially qualified graduates. In 1857, when the Calcutta University was founded, the senate consisted of nine *ex officio* members, and thirty others, selected among the chief educational and scientific officers of the Government, the principals of colleges, and other leading officials and non-officials; and things were much the same in the other universities. Gradually, however, as nomination to the senate came to be regarded as a high distinction, the numbers increased, and in 1901 the Calcutta senate consisted of 190 members. Bodies of this size cannot, of course, deal at first hand with the administration of a university, and this is largely delegated to a "syndicate" consisting of the vice-chancellor and a certain number of fellows nominated by the various faculties (arts, science, medicine, law, etc.). These are, moreover, assisted by boards of studies.

The resources of the universities are mainly derived from examination fees and from private endowments. Till lately the Punjab University was the only one

which received a direct grant from the Government, but of late years similar grants have been made to other universities also. In 1901, the total expenditure of the universities was Rs. 746,000, while their total income was somewhat in excess of this amount. As surplus revenues accumulate, they are generally applied to the founding of scholarships. It should be added that these universities are all in relation with the great universities of England, and that their examinations are to a certain extent recognised by these, and regarded as equivalent to a portion of their own curricula. They all give degrees in arts and law, and most of them also in medicine, science, and engineering; and the colleges have to shape their curricula with reference to the requirements of the university examinations, and the text-books and courses of study prescribed by the university authorities, which can further grant or withhold the right of affiliation.

These colleges are for the most part arts colleges, which give a mainly literary education. There are also special colleges for law, medicine, and science. In 1881-2 there were 67 arts colleges with 6000 pupils; in 1891-2, 104 colleges with 13,000 pupils; and in 1901-2, 149 colleges with 17,600 pupils. In the latter year there were also 46 special colleges, teaching other than art subjects, attended by 5300 students. Of the total number of colleges, 145 were in British India.

Educationally, the three most advanced provinces are Bengal, Madras, and Bombay; and, superficially, Bengal has the lead. In 1901 there were 64 colleges in this province alone.<sup>1</sup>

The Bengalis, of whom so much has been heard in connection with recent political troubles, are very proud

<sup>1</sup> Including the now separated portion of Eastern Bengal.

of their education. Gifted with a marvellous memory, which enables them to retain the phrases of a book, or the oral teaching of a professor, they excel in examinations. Lord Curzon's University Commission, of which I will treat later on, found, however, that the actual results were better in Madras and Bombay; and it is a significant fact that in the competitive examinations for the Enrolled List of the Civil Accounts Department, which affords one of the most lucrative and sought-after careers for natives in India, Madras candidates have of late years been more successful than those of Bengal. Religion and race also exercise great influence in the matter of scholarship. Here the Parsis easily hold the first place. In every 10,000 of these 471 are undergoing a university education, against 42 native Christians, 10 Hindus, 3 Musalmans, and 2 Burmese Buddhists.

The majority of the colleges are not State institutions. Out of the 149 arts colleges above referred to only 26 were departmental colleges maintained by the department of Public Instruction; 5 others were maintained by municipalities, and 3 by Native States, and all the rest were under private management. The State, however, while abstaining, as a rule, from direct management of the colleges, does not cease to concern itself with the education given there, and the teaching staff. It influences these directly by giving, or by withholding, grants in aid, and indirectly through the universities, the senates of which, consisting for the most part of Government nominees, can give or withhold the recommendation which alone enables a college to take part in university examinations. In deciding whether a college shall be aided, the Government takes into account its material equipment, its hygiene, the examinations for

which it prepares pupils, and the quality of the teaching. Those colleges which are the most satisfactory in these respects receive more liberal grants in aid, while in the case of those which are least satisfactory the Director of Public Instruction moves the university to withhold recognition. Colleges, whether State-aided or recognised, are divided into two main classes: the first grade, which prepare for a full university course, and the second grade, which only work up to an intermediate examination. Apart from grants from State funds, and in the case of missionary colleges, from the general funds of these bodies, the colleges depend on their fees, and on donations and legacies given during their life or by will of rich persons who are desirous to contribute to the development of national education, and to obtain praise and honour for themselves. As a rule, however, their income is small: the budget of the premier college of India, the Presidency College of Calcutta, is only Rs. 120,000 a year. The fees are small too. Those in the Government colleges run from Rs. 120 to Rs. 144 a year; in private aided colleges they average between Rs. 50 and Rs. 70, while in some of the unaided colleges they are as low as Rs. 15. Generally speaking, these are too low, even allowing for the low scale of living in India, and cast a grave doubt on the value of the studies thus scantily paid for. This defect is largely due to the fact that the majority of the students are not impelled to a university career by love of learning, or a disinterested taste for study, but by the hope that the knowledge they acquire will provide them with a career. Nor can we Europeans, so occupied in the struggle for life, condemn them for this. Are there many European schools whose students flock to them from the pure love of learning? Even in England,

where some disinterested love of higher study remains, where one sees the scions of great families working hard for the honour of their name, the bulk of the middle-class students at Oxford or Cambridge go there either to fit themselves for a livelihood or to obtain the friendship of fellow-students who will hereafter take a high place in the world. Native students regard the passing of examinations as a stepping-stone to public office, or to a private career, such as that of a lawyer or doctor. Their first objective is, as a rule, the State service. This attractiveness of a State career is a phenomenon found among nearly every people. In Eastern countries it was at first attributed to the influence of European nations who, coming into occupation of possessions which they had to administer with a very small number of officials from the mother country, had to seek local auxiliaries, and to attract, by the bait of pecuniary profit and social consideration, a crowd of candidates who were, at first, readily accepted. But when these nations, whether to improve the character of their services, or to diminish the excessive number of aspirants, raised their educational standards, it became clear, from the fact that the rush of candidates remained unchecked, that the seeking of public office was part of the native character. That is precisely what has been witnessed in India. As soon as the Hindus saw that to obtain situations under Government they would have to pass examinations, they started in pursuit of the diplomas which would effect this purpose.

These students who do not desire, or who fail to obtain, State service work for the liberal professions, and in the first rank of these comes the profession of law; next to that, medicine. There is still a considerable social gulf between the lawyer and the doctor.

With us that gulf has been gradually filled. The man of science has become the equal of the man of law, if he has not already passed him. In our contemporary drama the important personage of the piece is often a doctor, the head of a factory, or a scientist; fifty years ago he would inevitably have been a lawyer, a novelist, or a poet. The Indians are still in the stage where we were half-a-century ago, and in their marriage market, where competition is as keen as it is with us, the lawyer is more esteemed as a bridegroom than the doctor.

I do not propose to give any detailed description of the university examinations which the college students have to pass. It will suffice to note that the arts course begins with the matriculation, which tests the fitness of the high-school pupil for the college course; then comes the intermediate, or first in arts, which can be passed after two years at college, and finally the bachelor's degree (B.A.), which requires another two years' study, and the degree of Master of Arts, which can be usually obtained in two years more. Few candidates, however, go so far as this. For every 17 who pass the "intermediate" only 5 become bachelors of arts, and 1 only a master.

One of the striking features of the system is the obligatory attendance at lectures. A candidate cannot appear for the intermediate, the B.A., or a higher examination without certificates showing that he has attended the prescribed course of lectures in a recognised college, to an extent varying, in different provinces, from two-thirds to three-fourths of the total number of lectures given. Another point is the easy character of some of the examinations, and especially of the matriculation, where the candidates are numbered by thousands. The universities depend largely for incomes



on the matriculation fees, and this circumstance, the fear lest students should be attracted to some other university, and the internal pressure of the college and school teachers, who regard a large proportion of failure as a slur upon themselves, causes the standard to be lowered. The number of candidates, too, is so vast,<sup>1</sup> that the answers to a single paper have to be distributed among several examiners, and it is difficult, if not impossible, to obtain anything like a uniform standard. It follows that while some of those who pass are quite fit to follow any college course, others ought really to be relegated to the elementary school. Finally, some of the examinations, and especially those appertaining to the degrees in arts, can be passed too quickly. Boys have sometimes matriculated at 12 or 13, taken their full degree before they were 18, and then started to teach in colleges where they were often no older than their pupils.<sup>2</sup>

Such are the higher studies of India. But the name need not impose on the reader; they are, for the most part, of a mediocre description.<sup>3</sup>

In a subsequent chapter I shall deal with the reforms attempted by Lord Curzon in the matter of university education. But since it is to education of this character that the English have, by force of circumstances, given the greatest attention, I may as well state here the chief criticisms to which their work is open from a technical point of view.

<sup>1</sup> In 1901-2 the total number of matriculation candidates was 23,000.

<sup>2</sup> Efforts have now been made, in accordance with the proposals of Lord Curzon's Universities Commission, to fix the minimum matriculation age at about 15.

<sup>3</sup> I should add that a limited number of Indian students, desirous of greater learning than their own universities can give them, proceed to those of England, where they often meet with distinguished success, and become capable of competing with the English for the higher posts in the administration.

The first element of weakness is in the quality of the pupils. The students, who work hard, have a prodigious memory, but, with some admirable exceptions, their faculties of comprehension and criticism are very mediocre, and this requires the lectures to be on a low level. That fact must be noted, and regretted, but the blame cannot be ascribed to the English. Where the latter are more evidently at fault is in regard to the number and quality of the teachers. The total teaching staff in the Indian colleges has been estimated at about 1000, of whom 350 are in Bengal, and 275 in Madras, and this *cadre* is too small. In the largest college in India the number of professors does not exceed 11, and the average is only 4 or 5. Such a small *personnel* involves large classes and want of attention to individual pupils. Nor does the quality of the teachers compensate for their numerical feebleness. On the contrary, defective quality is the weakest point in the college teaching, with the exception of some institutions which are well in advance of the rest and are largely conducted by French Jesuits. There are also some good English professors, but the bulk of the teaching *corps* is native, and its quality mediocre. In a group of 272 teachers I find that only 45 came from English institutions (and some of these may have been natives), and 157 from the Indian colleges, while 70 had still lower qualifications. With a teaching staff most of whose members never have been out of India, it follows that a course of study whose object is to spread the knowledge and civilisation of the West is almost inevitably doomed to failure. It may be said that many of our European professors have to speak of countries that they have not visited; of arts and manners which they only know from books. But no

serious comparison can be made between the mentality and professional qualities of these Western professors, formed by long heredity and by excellent and constantly improved methods, and those of the Hindus—very deserving men, considering their circumstances—who have to improvise themselves as teachers in matters relating to Europe of which yesterday they were themselves quite ignorant. And who would deny, moreover, that even the most eminent of our own professors would have gained much by studying the material for their lectures on the spot? Could Renan, to take a famous example, have made such a vivid and accurate reconstitution of the Judæa of 2000 years ago if his travels and his work had not led him to the country where Christ was born and died?

A visit to an Indian college suffices to show the truth of what I have said. I remember, for instance, and it is only one specimen out of many, hearing a lecture on the Reformation, and on the part which Henry VIII. and his daughter Elizabeth played therein. I can conceive nothing more rudimentary or poor, and more lacking in general ideas. It consisted merely of a certain number of facts, marshalled like pawns on a chess-board. There was no life or force; it was a mere skeleton of a lesson, lacking flesh, muscles, and nerves. The professor was simply repeating a text-book. The text-book, indeed, reigns over the Indian colleges in all its hideousness, and it is not only the students who are possessed of these manuals—more or less happy compilations—which they learn by heart and repeat imperturbably. The professors themselves make use of them; and the elements of knowledge which they distribute among their pupils are unfortunately culled far more from these text-books than from any original works.

Vain efforts have been made to cope with this fundamental defect. The universities endeavour to prescribe courses of living lectures—not mere dictated lessons—from which the students would obtain real good; but the students, and too often the professors themselves, are incapable of such effort. The curricula, too, where science plays too small, and mere literature far too large, a part, lend themselves only too easily to an exaggeration of the original defects. When the examination day arrives, and it becomes necessary to test candidates who have obtained almost the whole of their knowledge from text-books learnt by heart, the examiners are obliged, in order to place them, to put ridiculous questions of this character: “What is the difference between ‘collision’ and ‘collusion’?” “How many Latin verbs do you know which have no supines?” etc. Even if the answers to such questions were correct, they could not be taken as evidence of satisfactory instruction, and it can easily be understood that methods of this sort have excited indignation and provoked a demand for reform.

## SECTION V

### *Lord Curzon's Reforms*

In 1899 Lord Curzon, who had then lately assumed the Viceroyalty, but who had previously given much attention to India, said that although he was aware that everything was not well with the Indian universities he refused to join himself with those who condemned them altogether. Such a condemnation was, in his opinion, unfounded and unjust. Three years later, however, he altered his tone, and declared that

India was receiving a faulty education through faulty agents, and with faulty results. In 1903, again, on the eve of the Bill for the reform of university education, of which I am about to speak, he put forward, as an absolute and irrefutable proposition, that the Indian educational system was defective in the extreme. How was it that a man like Lord Curzon, one of the most intellectual, as well as one of the most energetic, Viceroys whom India has known, came to modify his first impressions in so emphatic and unfavourable a way? It was because he had studied things on the spot, and having diagnosed the evil, he had, like a true Englishman, thought it better to proclaim it from the house-tops than to conceal it, persuaded that public opinion would thus give a more ready reception to the necessary reforms, while he could be trusted to apply the caustic unflinchingly.

I have already mentioned some criticisms to which the teaching of the natives of India give rise, and some attempts made by Lord Curzon's predecessors, as well as by himself, to meet such criticisms. In the present section I deal mainly with higher education, which, with its colleges and schools, still constitutes, in spite of all intentions to the contrary, the most important branch of the educational system; but I must beg the reader to bear in mind that the defects in higher education which gave rise to the legislation of 1903-4 were of a general character, and apply, analogously, to primary and secondary teaching also.

It follows, from all I have already said, that the system of instruction in India is mediocre. "That," say the English, "arises, in great part, from the defective mentality of our native pupils. They have admirable memories, but nothing more; they cannot comprehend

or apply." "No," say the Indians, "that is not the true position. If the teaching is bad, and gives poor results, the fault rests entirely with your own bad organisation. That is proved by the fact that those of our young men who go to the English universities take a creditable place there among the most brilliant of your countrymen." Some, who belong to an extreme class of political thought, add that the English secretly congratulate themselves on their faulty teaching, of which they are quite well aware, as being a sure method of hindering the intellectual, and consequently the political, emancipation of India. Having thus put the opposing points of view, let us proceed to the steps taken for reform. In 1902 Lord Curzon, after some months of preliminary personal inquiry, appointed a Commission to study the university and collegiate system, and to report thereon. This Commission, which was composed of 12 members, of whom 5 were natives, visited all the university centres, and, collectively or through some of its members, a number of the less important towns. It also endeavoured to ascertain how the Japanese had adapted Western methods to their needs. After an exhaustive inquiry, it submitted a report, which gave rise to the Universities Bill of 1903, a measure which passed into law in 1904.

From the Commissioners' point of view, nearly everything resolved itself into a question of money. The pupils were mediocre, the methods imperfect, the curricula and the examinations sometimes childish; but this was due to the fact that the teachers were, for the most part, mediocre also, and their mediocrity arose almost entirely from the fact that enough money was not spent on getting good men. I say almost entirely, for there was really another consideration at issue. Whether the

party in power in England be Radical or Conservative, the Government of India has always shown a greater or less degree of reluctance to a large admission of natives to the higher posts of the administration. In spite of the promises held out by the Charter of 1833, and the solemn proclamation of Queen Victoria in 1858, efforts are always being made to keep down the proportion of natives in these grades.<sup>1</sup> As, however, the authorities cannot openly break pledges which have been given, they seek side methods which will afford some satisfaction to the natives, without giving these a materially larger access to high political and administrative posts, a step which might, it is held, be dangerous to British rule. The compromise adopted is to give them a larger share of certain technical services, and accordingly, on the recommendation of a Public Service Commission which sat in 1886-7, the Government has admitted the native element to a larger share in the Education Department. That is why, in many colleges, English professors have given way to natives. The Budget, too, was relieved by this policy. India is a poor country, and cannot spend all that is necessary on public instruction. The Englishmen of to-day share the French reluctance to quit their mother country; £250 a year at home seems to them better worth having than £800 in India. Good men can only be obtained by large salaries, while Hindus, on the other hand, were content with incomes which seemed ridiculous to Europeans, and were loudly

<sup>1</sup> There has recently, however, been a more liberal tendency in this direction, under the inspiration of Lord Morley. Two natives have lately been appointed to the Council of the Secretary of State in London; and one has now (March 1909) been appointed as law member of the Viceroy's Council in India. The Councils of the Governors of Bombay and Madras are also to receive a native member, and it is in contemplation to provide executive councils, on which natives may sit, for one at least of the Lieutenant-Governors.

asking for posts which it seemed politic to accord to them. Political and financial considerations thus acted in the same direction, with the result that in recent years there has been a decrease in the English professorial staff, and an increase in the native element. A few years ago the Presidency College of Calcutta, the premier college of India, had only seven Englishmen in a teaching staff of twenty-two.

This reduction in the European element has had unfortunate consequences. The methods of teaching in India are mediocre, as is admitted by enlightened natives who have studied in England. But how can they be reformed with Indian professors, many of whom are incapable of anything but a repetition of textbooks? There is also a moral element involved. The English do not expect mere teaching from their educational institutions. Their schools have as a main object the formation of character, and it is in that field that Oxford and Cambridge are most characteristically successful. Similar results are sought in India; but how can they be obtained with a native staff who mostly lack force of character.

These and many other salient defects were brought to notice by Lord Curzon's Commission, and the Bill of 1903 endeavoured to provide effectual remedies. I ought at once to explain, however, that Lord Curzon and his advisers did not attempt the root and branch reform which some persons would have desired. They contented themselves with attempting to modify and improve existing conditions, dealing in that direction with the most important factors of the problem, the colleges, the universities, and the governing bodies of these.

In the colleges, almost everything deserved criticism



and called for remedy. It was decided, in the first place, that affiliation to a university should not be allowed to a new college without full inquiry, and that the colleges already affiliated should be subject to surveillance, so that those which did not maintain their studies at a sufficiently high level might be disfranchised. To guarantee the efficacy of this control, the syndicate of each university was to organise a system of local inspection which should deal, *inter alia*, with the following points: Is the administration of the college capable and disinterested? Is it actuated by other than mere pecuniary considerations? Does the college possess a good teaching staff, and adequate material equipment? Is the internal discipline capable of forming the character of the pupils? What facilities are provided for the residence of the students, and their supervision out of lecture hours?

It should be explained here that the majority of Indian college students, and this applies in still greater measure to the case of schools, are mere day scholars, and are not under supervision in their own homes or lodgings.<sup>1</sup> Efforts are, however, being made to apply and extend a system of college hostels, in which the students board under the supervision of resident members of the college staff. But the Indian social system, which prevents students of different castes from eating together, constitutes a serious difficulty in the application of a reform of this character.

After the colleges, the universities. If the system of inspection, by which it was hoped to improve the character of the colleges, was not to remain a dead letter, the universities and their administration must be

<sup>1</sup> There are some exceptions, the best known of which is the Muhammadan College at Alighur, which provides rooms for its students on the English model.

reformed. The syndicate of each university was to have large and wide powers. But the syndicate was itself a committee of the senate, by which its decisions had to be confirmed; and time had effected a change in the composition of the senates analogous to that which had taken place in the teaching staff. The senates, which in the beginning had been mainly European in character, had gradually, under the influence of perfectly natural circumstances, such as the death or retirement of European members, assumed a native tinge. In 1880, for instance, the Calcutta senate contained 137 Europeans as against 47 natives, while in 1901 there were 101 natives to 83 Europeans. Such native predominance was full of danger to education. The majority of the native members had had little or no preparation for their functions, which few of them were competent to exercise, and they showed undue complaisance to the private colleges.

Lord Curzon decided to reduce the number of each university senate to 100; and that the members should no longer hold office for life—a circumstance which gave the natives an obvious advantage—but for five years. Some of the members were to be chosen by qualified graduates, but the majority were to be nominated by the Government, and mainly from persons who had had actual experience of educational work.

The next point was to give the universities a more direct educational rôle. Hitherto they had been mere examining bodies; hereafter they were to become teaching bodies also. As examining bodies, whose constitution necessarily inclined them to pass too large a number of candidates from the affiliated colleges, they could only exercise a feeble influence on the quality and the level of the studies of these colleges. But when they

came to be possessed of chairs of their own, with professors really worthy of the name, it would be *their* teaching, the standard of *their* lectures, which would fix that of their examinations, and consequently of the college instruction also.

In regard to the professorial staff, whether of the existing colleges or of the teaching universities of the future, the Commission of 1902 had not been able to formulate conclusions which could be expediently embodied in the Universities Bill. Nevertheless, the discussions on this point elicited a number of ideas which it is useful to note, because one day or other they must take practical shape. Everybody agreed that the staff, as a whole, was mediocre, and to this cause was ascribed the unsatisfactory character of the teaching given. But opinions differed in regard to the remedies required. Many of the natives themselves admitted the superiority of the European teachers, and asked for good graduates from Oxford or Cambridge. "Send us," said an Indian, who plays a large part in all practical questions, Mr. Gokhale, "send us young men who possess the double gift of knowledge which they can communicate to us, and of sympathy which they can show us." The English, too, were aware that something must be done. "We give to India," said Lord Reay, "some of our best generals and our best administrators. It is our duty to give them also some of our best educationists." But the cost of obtaining English professors of the calibre required would be enormous. At the 1905 meeting of the Indian National Congress, Sir Henry Cotton, who had been in his time a distinguished Anglo-Indian administrator, put forward an ingenious idea, which perhaps contains the germ of a satisfactory solution. "We must," he said, "have

picked men at the head of our colleges and universities ; and by picked men I mean Orientals who have been thoroughly penetrated by Western civilisation, but have, at the same time, not parted with the traditions of their own past." Orientals would, no doubt, cost less than Englishmen, but they can only be thoroughly permeated with Western civilisation if a portion of them—at any rate, the really picked men—have enjoyed the benefit of years of study in Europe. That, too, is the opinion of Mr. Gokhale. "It is essential," he says, "that men of this sort should be sent to Europe." And to the objection that they would risk losing their Indian personality, he replies : "That is so, if they go too soon. We desire them, however, to maintain the traditions, the tastes, and the customs of our country, but tempered by Western conditions. That may be accomplished if they do not go to Europe till the age of twenty. As soon as we are sure that Europe will not be able to detach them from India, we shall welcome their acquisition of European culture."

I have thus briefly described the genesis and the objects of the Indian Universities Act of 1904, which constitutes the real charter of present-day education in India, and the subsidiary discussions to which it gave rise. Will it prove really efficacious? There is no doubt that the present law, if well applied, will produce much good ; but it is also clear that such application will require an energy which cannot always be counted on. When the Act of 1904 was under discussion, all the menaced private interests coalesced, under the pretext of defending sound principles ; even men like Mr. Gokhale denounced the measure as one calculated to officialise the universities ; and it required the tenacity of Lord Curzon to guide the measure into law. But

Lord Curzon is no longer there, and though some steps have been taken to elaborate the principles which the law could only sketch in general terms, it seems doubtful whether his successor, who has had many other preoccupations, can give full attention to the development of his projects. The circumstances, too, are hardly favourable, and in political crises the tendency is to seek for some immediate palliative rather than a remedy whose effects can only be gradual. My own opinion is that the reform will languish.

## SECTION VI

### *Female Education*

It is no paradox to maintain that in any society the education of girls is a problem which is probably more complex, but certainly not less important, than that of boys. The wife and mother will one day have a decisive influence over her husband and children, over the public and the private conduct of the former, and over the moral and intellectual development of the latter. The impress of the mother on young minds is, indeed, in many cases ineffaceable. If it is true that the generations of to-day prepare those of to-morrow, it is still more true that the mentality of the mothers shapes that of the children. Though these truths apply universally, their application is less apparent in India than elsewhere. Here, though the women play a very important part in family life, they seem to have hardly any in society, where they are not seen. At the age of ten, and sometimes earlier, a high caste girl disappears into the zenana, where she lives secluded from those who can

instruct her. Nor is such instruction desired. As we have seen, boys only seek education as a means of livelihood, and the parents, except among Parsis or native Christians, attach no importance to their daughters obtaining knowledge. Nor is a husband affected by the ignorance of his wife. Early marriage, again, constitutes an additional obstacle to education. Many little girls of five, six, or seven years of age are not only nominally married, but have been taken away from their own people and placed in the husband's house, under the guardianship of the mother-in-law. At what age can young Indians of this sort go to school?

To the main difficulty, that of bringing girls to school, we may add a second, that of obtaining mistresses. Very few Indian girls are competent to teach others, and, as in the case of boys, the question of cost prevents any large recruitment of teachers from England. Efforts are made to recruit the *personnel* from local normal schools, and there are about 50 of these, attended by about 1200 to 1500 girls. A staff of this sort is quite inadequate for female education in a country which, to speak of British India alone, has 232 million inhabitants. If, as in the case of boys, we reckon 15 per cent of the female population as representing girls of school age, we should get a total of about 17,000,000 for British India, and 21,000,000 for India as a whole. It is difficult to say how many of these could actually attend school; nor, in truth, do people concern themselves on the subject. Female education is still in a very rudimentary stage; indeed, one might say that it is grossly neglected. In a country so strongly governed by traditional ideas, it would seem that the parents should have been offered entirely separate schools for their girls, whereas, in fact,

more than 40 per cent of the girls at school are learning along with boys. It is true that these girls are very young—ordinarily between five and nine years of age; but even so, the absence of separate schools cannot be calculated to attract Indian parents to the idea of female education.

Nevertheless, the total number of girls under instruction is not altogether to be despised. It may be said that in all there are between 450,000 and 500,000 schoolgirls undergoing educational training of some sort, and the immense majority of these are in primary schools. This gives a proportion of about  $3\frac{1}{2}$  per thousand of the whole female population of India as being under instruction at any one time, and the last census showed that only 8 per thousand of the women of India were able to read and write.

As in the case of the boys, religion exercises a powerful influence on the school-going habits of the girls. In 1901, out of about 400,000 girls attending the public schools, 244,000 were Hindus, 48,000 were Musalmans, 30,000 Buddhists (in Burma), 46,000 native Christians, 15,000 Eurasians, and about 17,000 of different creeds and origins, among whom were 5700 Parsis,—an enormous proportion considering that the whole Parsi community, male and female, does not exceed 100,000 souls.

The total number of girls attending secondary schools may be roughly estimated at 45,000. The normal schools provide for 1400 or 1500, and there are about as many more in other technical and professional institutions. Finally, in 1901, the arts colleges included 177 female students (girls or married women), and there were 87 attending medical, law, and other special colleges. Of the 177 arts students, 55 came from Bengal,

49 from the United Provinces, 35 from Madras, 30 from Bombay, and 8 from Burma.

One of the professions which the Indian Government tries to induce women to enter—as we French do, also, in Algeria and elsewhere—is that of medicine. Its object is to provide medical care for high caste women who would not see a male doctor, to introduce improved sanitation and hygiene into the native homes, and to make the women doctors agents of Western civilisation. Lady Dufferin, the wife of a former Viceroy, had these objects in view, when, a quarter of a century ago, she initiated the National Association for supplying Medical Aid to the Women of India, which is supported by private subscriptions, aided by grants from Government, and maintains a considerable number of hospitals, or wards, where women receive treatment from members of their own sex. Lady Curzon and Lady Minto have also raised funds for the training of midwives and nurses. The female medical staff which has thus been organised consists in many cases of mere nurses, but also includes women who have obtained a real medical training. They are encouraged to attend medical schools by grants of scholarships. The universities, too, give some scholarships, and the total number of female medical students was 242 in 1901.

All these branches of education taken together reach, however, only a very small proportion of the women of India; and the main reason is, doubtless, that tradition, with which their relatives have not the courage to break, requires women of the higher social classes to remain in their own homes. In order to meet this prejudice, an interesting experiment has been made in the direction of zenana teaching, by means of which girls and young married women can obtain



instruction at their own homes. The mistresses who impart this teaching must have a variety of qualifications. They must be of sufficiently good family and high caste to be able to go everywhere, sufficiently educated to make their teaching valuable, and sufficiently lively to attract pupils. This system has, it is said, given some good results. At a distance it looks more romantic than serious, but as a similar method has succeeded in Constantinople, why should it not answer in India? As, however, this zenana teaching is a matter of private enterprise, the official statistics do not record the number of pupils which it reaches, and the expense involved.

The public instruction of girls costs about 40 lakhs of rupees a year, and the salaries of the women teachers vary from Rs. 20 to Rs. 150 a month. A total number of 500,000 girls under instruction for the whole of India is not very comforting to those who have the interests of education at heart, and a real development of female education will probably be a very long process. It will have to triumph over prejudices of every character, and especially those of a religious and social nature. In 1905, in one of the most advanced parts of India—the United Provinces, which have a population of nearly 50,000,000—a committee consisting of men of a certain social position set itself to discuss the question of female education. This unprecedented assemblage came to the conclusion, a startling conclusion for India, that the women should be educated. As husbands and fathers they declared themselves anxious to seek means for effecting this result, but, in their opinion, the indispensable condition of success was that the example should come from above. Now that is an almost unrealisable condition, since in India those who are at

the top of the social hierarchy, whether Hindus or Musalmans, are the most attached to religious prejudices. If then the middle and professional ranks wait for the example of the upper classes before they surrender to new ideas, success in this direction is very distant. It may be argued that among the representatives of these high classes are Hindu princes who have visited Europe along with their families, have mixed in our society, and desire, for their women, the education, the vivacity, and the charm which they meet with and recognise in European ladies. This argument, however, has no value, for when these same princes return to India, their wives at once re-submit themselves to all the exigencies of the *purdah* system. Others, again, endeavour to see an evolution of ideas in the fact that in Mysore two Brahman ladies have lately taken the B.A. degree of the Madras University. But an isolated fact of this description, occurring in a State which has 5,000,000 inhabitants, can raise no real hope: we can only trust to time.

## APPENDIX

### AN EXPERIMENT IN PRIMARY EDUCATION IN THE CENTRAL PROVINCES

I have spoken of the necessity of making primary education in India of a more practical character. An interesting experiment in this direction has been applied to the rural tracts of the Central Provinces,<sup>1</sup> where the population is more backward, more purely agricultural, and ethnographically more mixed and less Aryan than in most parts of India. The principal feature of the method by which it has been sought to attract their children to school is

<sup>1</sup> The Central Provinces have an area of about 114,000 square miles, and a population of about 11,000,000, exclusive of Berar, which, though administered by the Chief Commissioner of the Central Provinces, has traditions and systems of its own.

what is called the half-time system, under which the pupils are only taught between the hours of 7 and 10 A.M., and are at the disposal of their parents for field work during the rest of the day. The school course lasts usually for four or five years, and few children remain at school after the age of ten, or twelve at most. There are courses which involve longer school hours, and a greater number of years, but these are exceptional, and the half-time method is the typical one. The curriculum, which seems to be admirably adapted for the class of pupils for which it is intended, includes reading, writing, arithmetic, accounts, some study of land records, geography, and agriculture, as well as physical training. All this has to be got through in from four to five years, at the rate of three hours a day; and in a country in which holidays and festivals are numerous, the difficulty is increased by the great number of languages spoken in the province—several dialects of Hindi, Marathi, Uriya, and Telugu, to say nothing of minor tongues, so that the same book has to be printed in a variety of vernaculars.<sup>1</sup> The teaching methods seem very ingenious, and have all been borrowed from Germany. The German kindergarten system, and the methods of Froebel, have indeed exercised a very great influence in India among English and native teachers.

The study of agriculture, as may be imagined, holds an important place in this province, which is essentially agricultural and pastoral. Agriculturists are taught by books and practice, in the school and in the fields. The pupils of each year have a separate reader, which gives a large space to agricultural lessons. A small separate treatise—Fuller's *First Year of Agriculture*—is inserted *en bloc* in the third and fourth years' readers, and contains lessons to be learnt on the spot as well as in the schools. Here are some specimens of the questions which have to be answered:—

Point out to us a field which has been manured, and another not manured, and note the differences.

Explain the best method of making manure from substances ordinarily available—bones, excreta, urine, etc.

Point out an irrigated field, and one which has not been irrigated, and explain the difference.

The attention of the pupil is also directed to facts which will be of importance to him throughout his life, and then to the causes of these facts. For instance, a poor soil is not suited to certain cultures: the pupil is taught why this is so. Every school has a garden with squares and beds, where the pupils and the teachers plant vegetable and other seeds distributed to them, and

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<sup>1</sup> See an official report on the rural schools in the Central Provinces, by Mr. H. Sharp, Inspector of Schools, 1901.

watch their growth, receiving lessons on the spot as regards the soil, the different varieties and qualities of plants, and so on. When they leave school these young agriculturists cannot fail to remember a portion, at least, of what has been taught to them, and to apply it.

The geography they are taught is, again, of the most practical character. Around the school-room are maps showing the plan of the school itself, the village, the district, the province, India, and finally the world; and efforts are made to lead the boys on gradually from what they see and know to that which is distant and unknown to them. Here, for instance, is a series of questions asked :—

What village is this ?

On what road does it lie ?

What is the direction of this road ?

What is the next village it leads to, and how far off is that ?

And the next but one ?

Is there a mountain beyond that ?

To what range does it belong ?

What districts does this range divide ?

What river springs from it ?

Into what larger river does this flow ?

What becomes of the second river ?

And so on.

The arithmetic taught them consists of the four elementary rules, fractions, the rule of three, and calculations of interest—a very important factor with a people which has always to do with the money-lender. Book-keeping is also taught. Stress is likewise laid on the reading of manuscripts, a matter of special importance in a country where the Courts attach so much importance to written evidence of business transactions.

The most original feature of the teaching in these rural schools is, however, that which relates to the land revenue system, and the land records on which it is based. The boys are taught to understand the plans of the village, and of the fields which it contains; and the accounts which show the extent and character of each field, the crops raised thereon, and the holding and pecuniary responsibilities of each cultivator.

Finally, in the matter of physical exercise, use is made of a native system of gymnastics styled *deshi-kasrat*, which has the double advantage of being in conformity with the traditions of the country and, at the same time, very strengthening. The boys are taught, among other things, to imitate the position of a couchant lion, to squat like a monkey, to act like a man with one leg or one arm, etc.; and one must see them at these exercises in order to

realise the strength and agility which they can attain by constant practice. Schools of this character are mainly maintained through the agency of the educational departments of local bodies—district councils and small *tahsil* boards, whose members are largely elected by agriculturists and by members of the trading classes.

The schools are not entirely free. The fees charged vary with the means of the parent from one to eight annas a month; but at least 10 per cent of the pupils are admitted gratuitously, and the main cost of upkeep has to be defrayed from the public funds. The chief items of expenditure are the buildings and the salaries of the teachers, and in both cases the individual figures are low: it is the large number of schools which swells the amount. The average pay of the masters is Rs. 10 a month, which may rise to Rs. 20 a month in important schools; but they may add to their income by managing a village post-office and selling stamps and quinine, or, occasionally, by acting as sub-registrars. Though the masters draw such modest salaries, they belong generally to high castes. 50 per cent of the pupils in the normal school at Nagpur are Brahmans, and about 8 per cent Rajputs.

Thanks to incessant effort, education in the Central Provinces is in a considerably better condition than it was twenty or thirty years ago; but there is still much more room for progress. Out of a total population of about 11,000,000 the number of pupils under instruction in all public educational institutions was only 167,000 in 1903-4, and the Census of 1901 showed that only 57 men and 2 women in a thousand could read and write. Such progress as has been made, and it is relatively appreciable, is due to the improved quality of the teaching, the more careful recruitment of the masters, and the better management of the schools; and not the least change for the better is in the substitution of practical for mere literary teaching in the primary schools, which makes even the half-time scholar the better for his school training. Let us not, moreover, be astonished at the slowness with which education spreads in these backward areas, and at the little profit which the boys draw from attendance at school. No child in the world is less prepared for learning than the young native of these tracts. The European boy learns everywhere—at school, at home, in the world, and even in the street. But let us think of the condition of the Indian boy. His father and mother know nothing; his home ordinarily contains not a single book or article of furniture, not even a chair (the household utensils consist of pots for cooking and drawing water); while he gets no instruction whatever at his mosque or temple. His neighbours are like himself, and he comes into contact with the outside world only through occasional fairs, or, it may be, by making a pilgrimage with his parents to some sacred spot.

The schoolmasters, again, as has been stated in the body of the chapter, are exceedingly poor teachers. Given the calibre of the pupils, even the best qualified European teachers would meet with insuperable difficulties. Now the staff of the primary schools is entirely native, and the methods of the native teacher are absolutely defective. Knowing very little himself, he transmits this little knowledge not by explanation, but by simple appeal to the memory. Whether the child understands or not matters little, and the master's own comprehension is but slight. He deals in words, and it is very doubtful whether the realities underlying the words appeal to his mind. As regards this, the following anecdote, related by a British official, is significant. Entering a village school, he said to the master, "What is your lesson of to-day?" "About the earth, the sun, and the moon," was the reply. "And what do you teach?" "That the earth goes round the sun." "Are you sure?" "Quite sure." "But what is your private opinion?" "Well, I think that the sun goes round the earth!"

## CHAPTER VII

### THE SHARE OF THE INDIANS IN THE ADMINISTRATION OF THE COUNTRY

MEASURES recently taken by Lord Morley, the Secretary of State for India, in the direction of giving the natives of India a larger share of high administrative posts, have excited much attention and criticism, and raise one of the most difficult problems of Native policy. The question has several aspects, and the ambitions of the Indians have had several phases. What I have to say about the Indians in this connection applies, moreover, at the present day to all peoples held under subjection by Western powers.

Immediately after a conquest, the natives, still under the influence of the fears which it has excited, only ask the conqueror for a minimum of justice and security ; and if he is clever or honest, he endeavours to assure them these elementary boons. If he succeeds, he soon witnesses an unforeseen spectacle, the rallying to his cause of the most considerable persons in the conquered country. These, remembering the disorders and iniquities of previous Governments, are grateful to the new master for the peace which he gives them, and they ask but one thing, that the future should be as the past. That future, however, is shaped by new conditions, and its needs and desires are no longer those of

the preceding era. Security and justice continue to be benefits of the foreign régime, but having always possessed them, the new generations do not realise their sovereign value: they have other ambitions and other interests. Accordingly the country now asks more of the conqueror, who formerly contented it with so little, and such exigence becomes a practical problem. Moreover, he, too, has changed. He is no longer the stern warrior whose mere approach inspired terror and moderated pretensions; nor the pacificator anxious to conquer the minds of his subjects, and scattering promises and plans with perhaps more zeal than foresight. As the despotism he replaced gets forgotten, assured peace and uneventful days sap his *prestige*. Continued success has also diminished his goodwill. He no longer aims at the best, but does his duty mechanically, and, broken in to his own methods and surrounded by his results, he is indignant that everybody is not as content as himself. Discontents now develop. The scions of old families lament over their vanished privileges, while representatives of new social strata, created by the conqueror himself, demand the utilisation [of their talents, of which they have an exaggerated conception. The mass of the people, again, seeing a new swarm of parasites and usurers living on the produce of their labour, hold the new régime responsible for the voracity of these folk, forgetting that to this régime they owe the possibility of work, saving, and wealth.

In order to appease the discontented, the Government tries to associate them, or their representatives, in its work. It opens to them the *cadres* of the administration, and gives them a place in its councils. But hardly has it started on this path than it perceives that



it will have to follow it to a far end. So-called public opinion—its own creation, which it had hoped to retain as its obedient servant—intends to carry it far and fast. In vain does it try to stop; public opinion pushes on, abridging the delays which the Government has tried to postulate, passing the halting stages which it has set up. Concessions which satisfied the wishes of the first generation only exasperate the ambitions of the next: the troop of candidates swells, and their pretensions increase. Some want places and honours, others places and money; and although they are a minority whom the country does not really follow, they all affirm of the country's desire to reduce the share taken by foreigners in the administration. Some, indeed, go further, and claim the whole administration for themselves. And thus a moment arrives when the master, if he has not been heedful, has to take thought no longer for the welfare of his administration, but for the very existence of his rule. It is a drama of this character which is now being enacted on the Indian stage.

## SECTION I

### *Historical*

When Lord Cornwallis, during his first Governor-Generalship (1786-93), resolved, taking up the plans of Clive, to purify a corrupt administration, he felt himself obliged to remove nearly all the native functionaries from important posts. Long habit, which the English had tolerated, and had even encouraged by their own example, had made these folk past masters in the art of corruption, and of intercepting the Government revenues to their own profit. Cornwallis intended that

the revenues should go in full to the Company. He might no doubt have attained this result without depriving himself of able assistance from the Indians, and without going counter to a native opinion jealous of its traditional prerogatives. He decided otherwise, however, and left the natives but the crumbs of the banquet—small and petty posts. The rest he reserved in practice, which was soon sanctioned by an Act of Parliament (33 Geo. III. C. 52, S. 57), to the Covenanted Civil Servants of the Company, known to-day as the Indian Civil Service.<sup>1</sup> This policy continued till about 1830, when a subsequent Governor-General, the generous and far-seeing Lord William Bentinck, opened up a number of responsible executive and judicial appointments to natives, and thus laid the foundation of what is now known as the "Provincial Service." The mother country, which had encouraged him in this policy, soon went further, for the Charter Act, of 1833 declared that no native of India, or any British subject resident there, "shall by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the Company"; and a despatch of the Court of Directors, issued in 1834, emphasised these principles, and declared that natives of India should hereafter be held competent for any appointments which they were personally fit to hold. As a matter of fact, however, the highest appointments remained in the hands of the Covenanted Service, which was filled by nomination in

<sup>1</sup> They were termed "Covenanted" because they had to enter into covenants binding themselves not to trade, receive presents, etc.; while the lower official classes were, in contradistinction, termed "Uncovenanted." As stated in a previous chapter, the monopoly of the Covenanted Civil Service in respect to important administrative posts was not maintained in the non-Regulation provinces; but the fresh element introduced here was also English, and consisted mainly of officers drawn from the army.

England. When, however, that Service was thrown open to competition by the Charter Act of 1853, Indians were allowed to appear at the examinations held in London. The famous Proclamation of Queen Victoria in 1858, in which, after the mutiny, she endeavoured to rally native opinion to England by justice, solemnly confirmed the engagements of 1833.<sup>1</sup> At this time England was not making mere vain promises which anxiety concedes and security dishonours: it was her interest to abide by them. It would have been to her advantage to be able to point to a number of young Indians discharging honourable and lucrative functions, and such a position would also have enhanced the reputation of the 'Government of India. But it is easier to make laws and proclamations than to apply them, and the admission of Indians to competition for the Indian Civil Service remained for some years practically a dead letter, owing to the difficulties which religion and caste opposed to their proceeding to London for this purpose. A new Act of Parliament was consequently passed in 1870, which postulated the expediency of employing natives of India of proved merit and ability in the Indian Civil Service, and provided for this by enabling their admission to that Service otherwise than by competition in London, such admission to be by rules framed by the Government of India with the approval of the Secretary of State. But this benevolent concession had, at the outset, no greater effect than those which had gone before. The Indians appear to have been under the impression that the English had given it reluctantly; that they had yielded

<sup>1</sup> "It is our solemn will" (said this Proclamation) "that so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified by their education, ability, and integrity duly to discharge."

with a bad grace to considerations of English and Indian policy, to the pressing claims of native opinion, based upon previous pledges, and to the pressure of Liberal members of Parliament. And the facts certainly gave grounds for this supposition: it was only in 1879, nine years after the Act had been passed, that the rules contemplated for giving effect to its intentions were published. Under these the Provincial Governments were yearly to propose, for the approval of the Government of India and of the Secretary of State, a number of native candidates, amounting in all to 20 per cent of those selected by competition in England. The rights of the natives to employment in subordinate posts were also guaranteed by a rule which, save in the case of certain excepted departments, for which European qualifications were deemed specially necessary, required the special sanction of the Government of India to the appointment of a person not a native of India to any post carrying a salary of Rs. 200 a month and upwards.<sup>1</sup> The statute of 1870, and the rules of 1879 which gave it practical application, were not, however, popular among the natives. The "Statutory Service," which was to consist of men nominated in India for the discharge of functions previously reserved to the Indian Civil Service, did not attract the classes for whose benefit it had been established. By 1886 about sixty persons had been thus appointed. But instead of offering an exclusive privilege to the local aristocracy, this had been merely admitted to share the new Service with classes which it had long regarded itself entitled, by the attitude of the English themselves, to treat as inferiors. The professional classes were also indignant at the

<sup>1</sup> The principal excepted services were those concerned with Public Works, Police, Salt, and Opium.

continued predominance of the European element in a number of the technical departments, while they pointed out that, as the term "native of India" included domiciled Europeans, the latter might encroach on posts which it had been intended to reserve to the natives of the country. It is true that the law and the rules included among natives of India not merely Hindus, Musalmans, Parsis, and other real natives, but the half-bred Eurasians, and even Englishmen of pure blood who had been born and brought up in India; and the idea which dictated this definition is worth examination.

The conduct of the English shows that in their belief mere transmission of blood does not suffice to maintain purity of race. They no doubt attach a high value to blood. Since the Spaniards, who enriched their tongue with so many terms showing the precise extent to which a man is of European blood, no people has more jealously watched the contact and mixture of races, and held aloof products which departed from the original type, than the English and their American descendants. They have indeed shown, in this matter, an intolerance which has, in no small degree, tended to prevent *mésalliances*. That, however, has not sufficed: they only regard as real English those who are so twice over, by blood and by surroundings. This distinction does not appear in the laws which regulate such matters as succession, or the recruitment of public officers;<sup>1</sup> but it exists all the same. It is one of those unwritten laws, dear to the English, which are transmitted from age to age and dominate successive generations. Let us suppose that an Englishman of honourable stock, and

<sup>1</sup> Save in so far as Englishmen domiciled in India are treated as natives of the country for the purpose of appointments which are filled locally.

married to a woman of good family, has settled down in India, and has children there. When these arrive at the age—seven or eight—at which Anglo-Indians are accustomed to send their boys and girls to England in order to withdraw them from the contact of Indian servants, and bring them up in the national atmosphere, our Englishman, owing to want of money, has to keep his by him, and to educate them as best he can. Let us suppose that husband and wife are accomplished teachers; that he is a man of much learning, and that she is endowed with reason and good sense. Nevertheless it will be a miracle if their children are not later on treated as English of India, and esteemed inferior to the English of England. They will not have had the opportunity of living in the old country, among its robust English youth, and of imbibing there those ancient prejudices which make the savoury originality of the race, and those stern maxims which give it its lofty pride. However keen their intelligence, however wide their knowledge, England will not voluntarily class them among those to whom she predestines the direction of the masses, and to whom she entrusts the fate of the country: she will be mistrustful of their conscience and their character. Unless, led by a tardy scruple, their parents send them to an English university, at an age at which they can still be fashioned by its education—where they will not merely be prepared for the technical examinations which qualify a candidate for Government employ, but will follow that noble public teaching which makes men—they will only be allowed entry into subordinate posts in the Indian administration; and unless they be veritable prodigies, they will not be able to rise thence to those lofty summits from which an empire is surveyed and directed.

About the year 1880, then, after fifty years, I will not say of goodwill, but of attempts which were really honourable, the English had not yet succeeded in intimately connecting the natives with their administrative work. The Charter Acts of 1833 and 1853, the Proclamation of 1858, and the Act of 1870 had all been inefficacious. To-day the lapse of years permits us to discern the causes of this powerlessness. The case furnishes a significant episode in the eternal struggle between the politicians and the bureaucracy. The statesman, led by motives which he terms political necessities, recommends some particular attitude towards the natives. But the Government offices, led by motives drawn from what they style the needs of the administration, are opposed to such a policy. And in this conflict, which is an unequal one because the politician has presently to turn his attention elsewhere, it is the tenacious apathy of the permanent officials which prevails. Their triumph, however, is never permanent. The native, finding himself supported at home, renews his complaints; the Parliamentarian, seeing that he has failed, redoubles his efforts. The struggle thus recommences until the native has snatched yet another shred of power, and the satisfied Parliamentarian once more allows his activity to sleep. The attack must necessarily be renewed later on, for, and this is a noteworthy phenomenon, the native is not, and never can be, satisfied. He only obtains a few concessions which lack the character that might alone reconcile him to British rule, spontaneity and good grace.

A logical system condemns this method of action and reaction, and the long delays which it engenders, but they accord with practical policy. It is certain,

however, that this struggle must, in the long-run, end in the victory of the natives, and that the English must one day be reduced to the occupation of a very small number of high appointments—a mere symbol of their rule. Stendhal has said that as the prisoner thinks more often of escape from his prison than the jailor of keeping him there, as the lover thinks more constantly of approaching his mistress than the husband of keeping him away from her, lover and prisoner must in the end succeed. The Indian, too, will succeed—that is certain ; but it is good for himself and for India that he should not triumph prematurely.

The resistances of the Government of India to large concessions find their excuse in the professional incapacity of the new agents whom it is desired to impose upon it ; but every year diminishes the force of this argument. Numbers of natives, who, during the last generation, have gradually forced the doors of the administration, have, in large part, been patiently digested and assimilated by it. Its incessant action has, in fact, led to the result that a certain proportion of the parasites who threatened to enfeeble the organism have been absorbed by it and have left it healthy and vigorous. Education, moreover, is preparing new candidates who are better trained and cleverer than their predecessors, and these lend them a hand, and initiate them into good methods. Their professional merit asserts itself ; and the problem would soon be settled if, to administer and to govern, it was only necessary to acquire technical knowledge and a certain official knack. But character requires to be formed as well as mind ; and how long will that take ?

This struggle between rival elements is subject to



the intervention of a regulating power. The Secretary of State for India watches, from a lofty and distant position, the ebb and flow of the Indian tides. Charged by Parliament with the control of the Government of India, his deliberate attitude towards that body is neither hostile nor complacent. He watches; he consults; sometimes he intervenes in what the Government of India consider an irritating manner. In the struggle of races he has to defend himself against his own prejudices as an Englishman; and he is faced by another power which is ready to open his eyes in this respect, the Parliamentary opposition. It must be remembered, too, that when the Liberals are in power, the real opposition in Indian matters is the Radical party. That party adopts in large measure the attitude and the traditional rôle of the Republican party in France: it defends the rights of man, even if the man is an Indian. If the interests of British rule suffer, so much the worse for it! It listens with open ears to the complaints of the natives; and as its competence is less than its zeal, it receives them perhaps a little too readily, and carries them cheerfully to the floor of the House of Commons. The Secretary of State, on his side, has expert councillors by him. He is duly informed of facts, and it is for him to hold the just balance between the exigencies of administration and those of politics. Often enough he ends by appointing a Commission, and this is what happened on the present occasion.

As above stated, the results of the Statute of 1870 had been disappointing: the natives had once more commenced to complain. They wanted more and better posts, to be obtained otherwise than by competition in London; and the policy of the metropolis,

and the desire of Queen Victoria, was to listen to them with benevolence. A Public Service Commission was accordingly appointed in 1886, after some years of discussion, and held a long inquiry in India under the presidency of a former Lieutenant-Governor of the Punjab, Sir Charles Aitchison. The results of its labours were as follows:—The Statutory Civil Service, above mentioned, was abolished, and the Civil Service of India was divided into three branches, the Indian Civil Service, the Provincial Service, and the subordinate services.

The Indian Civil Service, which was to replace the old Covenanted Civil Service, was, as formerly, to be recruited in England, and was to furnish the majority of the higher posts in the administration, from those of Collector or District Judge upwards, with a sufficient number of subordinate posts to give adequate training to its younger men. Men appointed in India were not to be members of the Indian Civil Service, even though they held posts usually reserved for it.

Each province was to have its own "Provincial Service," recruited on the spot by the Local Government under conditions approved by the Government of India, which was to be filled by the direct nomination of young men of good position and education, by competitive examination, or by the promotion of deserving officers from the subordinate service. The "Provincial Service" was to man the chief posts below those of Collector or District Judge (such as deputy collectorships and subordinate judgeships) apart from those held by junior civilians under training; and a certain number of the higher posts were also to be "listed" as tenable by "Provincial Service" men, and not by Indian civilians. The number of posts so listed was to be considerably

in excess of the number already filled by Statutory civilians.<sup>1</sup>

Finally, the subordinate service was to fill the minor administrative posts, as, for instance, that of tahsildar. The "Indian," and even the "Provincial," Services are aristocratic; democracy was to commence with the subordinate service. Similar steps have been taken in regard to the larger technical departments, such as the Police, Forests, Education, and Public Works. The portion of these services which is directly recruited in England is styled the "Imperial" branch, while the "Provincial" and subordinate branches are recruited in India.

The "Provincial" and subordinate services are almost entirely a native monopoly, and no European can be appointed thereto without the special sanction of the Government of India. That is a great concession made to the natives; but once again we must notice the bad grace with which the Government of India resigned itself thereto. Although the Public Service Commission had reported in 1887, the final arrangements were not sanctioned till 1892.

In reviewing the part which the natives hold in the administration, it must be further noticed that they have a very large predominance on the rural boards and municipalities, which manage local affairs for the greater part of India; and these bodies give them a practical training for administrative, and hereafter, perhaps, for political, life.

Such was the state of affairs until recently; but

<sup>1</sup> The number of posts so listed had reached 108 in 1905, but the natives complain that they are still without the full proportion which they would eventually have obtained by the operation of the rule of 1879, which was to give them one-sixth of the total number of the places hitherto held by the Indian Civil Service.

since Lord Minto became Viceroy, and Lord Morley Secretary of State, a further departure has been made in the direction of satisfying native aspirations. Hitherto, while natives of India had occupied places in the High Courts, the highest administrative position attained by any of them had been that of a member of a Board of Revenue, dealing, under the Local Government, with the revenue administration of the province, or that of Commissioner of a division. They had not won their way into the Government itself. In 1907, however, Lord Morley appointed two natives—Mr. K. G. Gupta, a distinguished native civilian from Bengal, and Mr. Bilgrami, a Muhammadan—to his own Council in London, and in 1909 he appointed Mr. S. P. Sinha—a barrister from Bengal, who had held the position of Advocate-General in that province—to be law member of the Viceroy's Council. A Bill now (March 1909) before Parliament, which will shortly pass into law, authorises the enlargement of the Executive Councils of Madras and Bombay, with the object of appointing natives to these Councils also. It likewise permits of an Executive Council being established in provinces now ruled by single Lieutenant-Governors—the first commencement in this direction being intended to be made in Bengal—which will hereafter enable the same result to be attained there. As stated in a previous chapter, the Legislative Councils are also to be largely expanded. The non-official element here will consist mainly of natives, and it will be in a majority in every Council except that of the Viceroy. These Councils will have large powers of discussing the Imperial and Provincial budgets, and they will be able to move resolutions not merely on financial matters, but on general questions of public policy, for the considera-

tion of the Government of the province or of the Government of India, as the case may be. The reception which these reforms has received brings to light the difficulties of the problem. The advanced party among the Hindus accepts them as an instalment, which is sufficient for the present, but will need expansion in the future. The Musalmans are indignant at the idea of a Hindu member of the Viceroy's Council, unless there should be a Musalman member also, and to give two native members is a concession which Lord Morley has refused. The Musalmans again demand and have obtained a promise of special Muhammadan electorates for the Legislative Councils, but this irritates the Hindus, who claim territorial constituencies in which their numerical superiority would prevail. English Conservative feeling, voiced by ex-Viceroy's like Lord Lansdowne and Lord Curzon, and supported by many distinguished members of the Indian services, doubts the expediency of giving powers to Legislative Councils which cannot really represent the people, and whose members will not be steadied by the responsibility of having held office in the past or the hope of holding it in the future. Misgiving is also expressed as to the admission of a native to the Government of India, which will thus cease to be a homogeneous British body. No one native, it is said, can adequately represent all the peoples, creeds, and interests of this vast sub-continent; and the native chiefs, who have so much to do with the Government of India, as well as the bulk of the population of British India, would prefer the impartiality of Englishmen. Similar arguments are adduced against the admission of natives to the Provincial Governments. Lastly, if the natives selected for this new office are members of the National Congress party,

a premium will have been set on agitation, while if that party is ignored, it will at once agitate afresh. Such are the criticisms to which these reforms have given rise. Time will show how far they have been justified or exaggerated, but no outside observer who has the interests of India at heart can withhold his admiration from the courage which has prompted them.

## SECTION II

### *Some Statistics*

It must be understood that the struggle between Englishmen and natives for office in India has been concentrated on a relatively small number of well-paid appointments; and that the posts occupied by natives, without dispute, run into hundreds of thousands. Excluding posts connected with the army, the Census of 1901 showed that some three million people were supported by Government employ of one character or another in British India, and about two million more in Native States; and all but a few thousands of the occupants of these posts are natives. More detailed evidence is given in an official document published in 1904 by the Government of India, as the result of an interpellation addressed to it in the Legislative Council in 1903.<sup>1</sup> This document furnishes, for every service and department, the respective numbers of native and European functionaries. It does not, however, extend to posts below Rs.75 a month, for it is rightly supposed that those which carry a less remuneration are practically all in native hands, and these are far

<sup>1</sup> This paper was a little too cleverly drawn up. The line of argument which the Government of India adopted was sufficiently good to have admitted of greater frankness.

the most numerous. The report compares the figures of 1867 and 1903, and shows that during this period the natives have progressed in every way. They have a larger number of posts, and larger salaries. In 1867 there were 13,431 posts carrying a pay of more than Rs.75 a month, which were held by 4760 Europeans, 2633 Eurasians, 5090 Hindus, and 948 Musalmans. In 1903 there were 28,278 posts of this character, held by 6468 Europeans, 5435 Eurasians, 14,202 Hindus, and 2173 Musalmans. No doubt the Europeans hold the majority of the high posts on Rs.1000 a month and upwards, and the Indians the great majority of the small posts on Rs.200 a month and less. But the high posts, which numbered 648 in 1867, had risen only to 1370 in 1903, whereas the increase in the lowest posts had been from 7837 to 17,725. Taking all posts included in the statement, the salaries of those held by Europeans had increased by 36 per cent, of those held by Eurasians by 106 per cent, of those held by Hindus by 179 per cent, and those held by Musalmans by 129 per cent. And if we group Europeans and Eurasians on one side, and Hindus and Musalmans on the other, the increased percentage is 61 for the former group and 171 for the latter.

The average cost of each appointment was Rs.336 a month in 1867, and about Rs.307 in 1903; but the lowering of the average has been to the loss of the Europeans and Eurasians, not to that of the natives, whose average emoluments increased from Rs.175 to Rs.188 a month. The statistics, moreover, show that in the lower-paid posts the Europeans and Eurasians compete very slightly with the natives. Of 6209 posts with a pay of Rs.75 to Rs.100 a month, they only held 5 per cent; of 11,516 appointments from Rs.100 to

Rs. 200 a month, 10 per cent; and of 3635 from Rs. 200 to Rs. 300 a month, 18 per cent. In appointments of this nature, Europeans and Eurasians are generally found in certain special technical departments such as the police, the post office, customs, public works, railways, and telegraphs. It may be said, indeed, that their share of the posts which carry less than Rs. 400 a month is yearly diminishing, while in the higher appointments their monopoly is in danger.

The figures given above are for British India as a whole, and in certain provinces the share of the natives is still larger. In Assam they had 74 per cent of all the posts which came under review; in Madras, 68 per cent; and in the old provinces in Bengal, 67 per cent. And if we only take posts carrying Rs. 1000 and upwards, we find they had 27 per cent of these in Berar, 14 per cent in Bombay, and 13 per cent in Bengal.

Taking a few special departments, we find that, in 1903, out of 1293 posts at Rs. 75 a month and upwards in the Education Department, 927 were occupied by Hindus, 97 by Musalmans, 66 by Eurasians, and 203 by Europeans. The superior staff of the Civil Accounts Department, known as the Enrolled List, whose pay is very considerable, manned 47 posts, outside 5 specially reserved for civilians, and of these 25 were filled by natives. In the Forest Department Indians held 416 out of 608 posts at Rs. 575 and upwards. In the Political Department, which has to deal with the Native States, and also administers Baluchistan and the North-West Frontier Province, the higher posts are reserved for civilians or military officers, but below these the native element is strongly represented. 47 per cent of the posts on Rs. 75 a month



and upwards in the North-West Frontier Province were held by Indians, and 50 per cent in Baluchistan ; while, taking the department as a whole, the percentage of posts held by natives had risen from 61 per cent in 1877 to 81 per cent in 1903. It is worth noting that in the political, as well as in the civil, services the Hindus have a greater share than the Muhammadans. The Judicial Services had 2398 posts on Rs. 75 a month and upwards in 1903, and of these 1701 were occupied by Hindus and 229 by Musalmans, while the Registration Department was almost entirely manned by natives. In the Land Revenue Department, out of 4632 posts on a pay of Rs. 75 and upwards, 2920 were occupied by Hindus, 624 by Musalmans, 208 by Eurasians, and 880 by Europeans.

These figures show that a very considerable portion of the public service is entirely reserved to natives. The departments in which they have the least share are those which require special technical knowledge, absolute neutrality between different races, aptitude for resisting temptations of all kinds, or occasionally special physical qualifications. Instances of such services are the scientific portion of the Agricultural and Meteorological Departments, Mines, Railways, the higher Public Works posts ; and the principal offices in the Telegraph and Postal Departments, and in Police, Customs, Salt, and Opium.

### SECTION III

#### *Rivalries between Natives*

As we have seen, the natives have already a large share in the administration of the country, but they deny that it is a just or sufficient one. They want to

extend it, and will only be satisfied when it embraces everything. In substance this seems a legitimate claim. If the natives become fit by education and *moral* to replace European administrators, they acquire such strong claims to the administration, if not at once to the government, of their country, that no power in the world could ignore or reject these. It would thus only be a question of time for the conquest of the bureaucracy—I do not say of actual power—which is the object of all their ambitions. Unfortunately for them, however, this realisation does not seem near, for the period which would in any case be necessary is at least doubled by another question, the rivalry of the different Indian populations.

India is not a nation. It is an agglomeration of peoples which differ in race, religion, institutions, and language, and which have merely been grouped together by the accident of foreign dominion. There was a partial grouping of this sort under the Mughals: it has become complete under the English, but there is no real fusion. The peoples merely live side by side, and are still dominated by the recollection of the past. If the British rule were to disappear to-morrow, Sikhs, Musalmans, Marathas, other Hindus and Burmans would probably not consent to remain united for a single day, and even under the rule of England, which is usually light, but always firm and, on occasion, stern, these national rivalries (one might almost call them hatreds) betray themselves—sometimes by cautious representations, in which Asiatic aristocracies excel, sometimes by furious attacks which place irreconcilable multitudes at violent issue. The exercise of power, or, more accurately speaking, the distribution of places, under British control is, for these various rivals, the pretext rather

than the cause of constantly reawakened jealousies. At the outset the English would seem to have entirely ignored such feelings. When they commenced to associate the natives of the country with their admirable administrative work, they followed the example of the Mughals, and chose their auxiliaries from among the then powerful classes, the aristocracy and the landed gentry, whether Musalmans or Hindus. But when, getting more absorbed in the details of administration, they required more efficient assistance from their Indian collaborators, they substituted another criterion, that of talent and certified knowledge. For this no European can condemn them: it is a method which carries its own justification, and with which he is familiar. Nevertheless, of all colonising peoples, the English should have hesitated most before adopting this new test. They had only to consider the history of their own country, and the enormous place which the aristocracy had so long held there. Had they done so they would probably have seen matters in India from another point of view.

To put the problem in its simplest shape, we may say that the peoples of India are divided into two great groups, the Hindus and the Musalmans; and the British India of to-day contains 62,000,000 of the latter and 207,000,000 of the former. The Musalmans, who were formerly warriors, cultivators, and shepherds, were for centuries the dominant race. Men of action, accustomed to open-air life, they have never been great scholars, and they did not usually concern themselves with book learning. That, however, did not prevent them from furnishing India with eminent rulers, whose names are inscribed in the history of the world. They remember this, and, recollecting what they were able to do, they look with

some astonishment, not to say contempt, on this new practice of requiring proofs of book learning from candidates for public office. They distinguish between knowledge of books and knowledge of men, and they were for long little disposed to obtain their share of State employ by examinations and diplomas. The Hindus, on the other hand, and especially those of the high castes, have been, and remain, men of meditation and indoor life.<sup>1</sup> Study has always been a refuge for the vanquished: the philosophical works of Cicero, for example, whatever their actual value, date from the era of dictatorships and proscriptions. For centuries the Brahmans, or at least a portion of them, constituted that part of the population which could read, write, and reason. Their occupations were intellectual, and mainly of a philosophical and literary character. When, fifty years ago, the Anglo-Indian universities were created, the Brahman youth furnished the bulk of the students; and as the university programmes were at the outset almost entirely literary, the descendants of the original students have inherited, and are, one might say, dominated by, these exclusive aptitudes which necessarily impel them towards public functions. The high-caste Hindus have succeeded in obtaining an immense preponderance of the higher posts under Government. Thus in 1903 the Musalmans had only 5 per cent of the appointments between Rs. 400 and Rs. 600 a month held by natives in India, and in the higher grades their percentage was still less.

The Musalmans awoke but tardily to this super-

<sup>1</sup> In the struggle for official places, it is the educated Hindus, and Brahmans especially, who are most interested. The petty posts may be filled by ignorant men, but when you get to appointments of Rs. 100 and upwards, a prolonged course of study is required, and the Hindus then have an immense advantage.

session ; and it is only to-day that they have discovered the practical utility of studies which they at first despised. They go more frequently to the universities, and even demand universities of their own, and they flatter themselves that before long they will be able to produce a sufficient number of candidates to qualify for any sort of Government employ. Nevertheless they remain critical of the procedure which the English adopt in recruiting their *personnel*. In 1904, for instance, the Musalmans of the Punjab addressed the Lieutenant-Governor in a memorandum which contains an expression of their views on this subject, and which is well worth considering. "It was only in 1882, they said in substance, that the filling up of important posts in this province was made dependent on success in examinations. We presume that you English had your reasons for imposing such tests : we do not know and cannot guess them. The system is repugnant to our traditions, and we cannot consider the results of examinations as furnishing sufficient evidence of a man's aptitude to govern or to dispense justice. Our history has shown us that there are other criteria. To cursory examinations, in which memory plays a predominant part, we prefer the presumptions which arise from the social position of the candidate, the services rendered to the State by his family, his own character and demeanour, and his aptitude to obey and command. We cannot trust young collegians even if these have received a real education. Events have justified us, since it is now admitted that the competition system produces poor results, a fact which we had long foreseen. Such a system may suit the West, but it was bound to fail in India, since it took no account of the political and

come too late. It has already produced its worst effects, and, above all, it has awakened the long slumbering hostility between Hindus and Muhammadans. A method which necessarily disturbed the material equilibrium between the opposed races was bound to excite their antagonism. We Musalmans have been sacrificed in all directions, and that without any profit for the Government. In this province of the Punjab, where we are the majority, the Hindus have 74 Extra Assistant Commissioners against our 57, and 40 district munsiffs against our 5. And even these figures fail to show the real extent of the wrong which has been done to us, and the depth and bitterness of our resentment."

The above is a brief summary of a long memorandum, full of facts and arguments. The Lieutenant-Governor of the Punjab received it with respect, but he could not apply the prompt remedies which the petitioners desired.

Two years later (in October 1906) the Musalmans, not merely of the Punjab but of all India, and especially those of the United Provinces, moved by the agitation which had followed the creation of the new province of Eastern Bengal and Assam, sent a deputation to the Viceroy, and placed before him a statement of their many grievances. They demanded that their co-religionists should obtain, in all ranks of the administration, the legitimate share due to their number, their history, and their social position; and that the Government of India, as well as the Provincial Governments, should no longer rely on mere examination results, but should take efficacious steps to give them their due proportion.<sup>1</sup> As already stated, the Musalmans have

<sup>1</sup> There is another difficulty which materially complicates the task of the English, in that the people of each province demand that the officials employed therein should belong to the province itself. The Burmans, for instance, do

made similar demands with reference to the reforms lately adopted by Lord Morley. They claim, by reason of their past history and special position, a share in the enlarged Legislative Councils which shall be even greater than their numerical strength.

The Government of India, again, has no longer the faith that it had formerly in examinations. It now realises the inconvenience of these—that they lead to the triumph of the Babu,<sup>1</sup> gifted with a ready memory, and sometimes lightly burdened with scruples; and that they attract, as a rule, only members of the middle or lower social classes, and not the sons of nobles or of great landlords. The method of recruitment which would be most pleasing to the higher classes would evidently be direct selection by the Government of the province, on the recommendations of local officials, and that method is one which has been specially applied of late years in the United Provinces, more particularly since 1903. In the subordinate services, too, efforts have been made to check Babu predominance in two ways—first, by admitting as candidates for positions like that of tahsildar only young men whose families are of good repute, and are known to be well affected to the Government; and secondly, by modifying the character of the examinations, and particularly in the direction of optional subjects with which the Babus are not already familiar, and in which the Musalmans have an advantage, such, for instance, as Persian and Arabic.

not desire to be governed by Hindus, and the Punjabis loathe having to obey Bengalis. The present organisation of the "Provincial" and subordinate services tends to give satisfaction to these provincial claims, but such a step involves grave consequences. If the English accept the cry of Burma for the Burmese, Assam for the Assamese, etc., there comes, as a logical consequence, the demand of India for the Indians.

<sup>1</sup> "Babu" is a Bengali term, which is really the equivalent of the English "Mr."; but it has come to be a synonym for the educated middle class.

The Government has thus given some satisfaction to the higher classes, but is now face to face with other, and greater, difficulties which, it may be feared, will last, in one shape or another, as long as the British dominion itself.

#### SECTION IV

##### *The claims of the Literary Classes and the opinion of the People*

It is an enormous task for a country of moderate size to maintain, from such a distance, its rule over a continent of 300,000,000 people, and this difficulty is increased by the fact that the ruling country is represented on the spot only by some tens of thousands of its own people. The authorities feel their weakness, and are often led to declarations which they will find embarrassing later on. If some danger threatens them, they are obliged to resort sometimes to flattery and sometimes to compromise. They paint the merits of their subjects in higher colours than the facts warrant, and pledge themselves to concessions which it is beyond their power to make. They thus excite ambitions which they themselves style legitimate, and hopes which claim early realisation. That is what has happened to Great Britain in India. Whether from a desire to give satisfaction to the enemies of the Company and, later, to Liberal members of Parliament, or in order to conciliate subjects who had shown that they could be formidable, she has, in good faith, offered to the Indians a régime of intimate and honourable co-operation. Again, at certain critical periods of her history, she has appealed to their devotion, and has, so to speak, drawn bills



which the future was to honour. All this the Indians have noted, and they await, from generation to generation, the confirmation or the maturing of all these flattering words, solemn promises, and blank cheques. They recall them from time to time to their British fellow-subjects, and if these give a tardy or evasive answer, they insinuate that the good faith and the reputation of the British are at stake.

Underlying this imbroglio, which has existed at least since 1833, there is a fundamental misunderstanding. The English have perhaps shown too much discretion in indicating the conditions to which the accomplishment of their promises were subject, and the discussions between them and the Indians turn on the point that the latter say that these conditions have been realised, and the former that they have not.

The Indian position is as follows : " We exercise no real influence over the direction of this vast empire which is really ours. We are lured from time to time by many small and badly paid posts, but we are excluded from those in which important action is alone possible." This was the line of argument taken by Mr. Manomohan Ghose at the meeting of the National Congress of 1903, over which he presided. " Those few of us," he said, " who reach high official position find themselves so isolated that they end by no longer thinking and feeling as we do. They betray us for the benefit of the English : salaries and honours have detached them from us, and titled officials no longer work for the public good. How many of us are there in important posts? Our share in the Indian Civil Service is a wretched one. It is true that we are entitled to compete for it, but the examinations are held in London,

for many, an infringement of the rules of caste, which keeps back the most gifted of our youth. In competing with the English, too, we have to use their language and not ours. Nevertheless, at each examination we produce one or two successful candidates, who sometimes take a high place. In the face of these facts, how can it be said that we lack the necessary talents, and with what justice are we reduced to holding about 40 posts out of the 900 open to the Indian Civil Service?<sup>1</sup> In the Police we are not even allowed to appear at the examinations for the higher posts, which, again, are held in London, while we only get two places a year in the Public Works appointments filled from the Cooper's Hill College.<sup>2</sup> A similar state of things exists in other services. We are sometimes told that we lack the necessary knowledge, and sometimes that we lack *moral*, and yet we get plenty of flattery. The English press notes our successes, and appreciates our talent: we should prefer some slight practical concessions."<sup>3</sup> Mr. Gokhale, the Poona Brahman, a learned man of high character and an eloquent member of the Viceroy's Legislative Council, has reinforced these pleas by a

<sup>1</sup> About 1894 Mr. Malabari, the well-known Parsi writer and reformer, published a pamphlet styled "Indian Problems," in which he maintained that there was a mass of young men in India capable of competing for the Indian Civil Service, and demanded that the examination should be held in India as well as in London. The reader will, no doubt, have anticipated the reasons which led the English to oppose such a course.

<sup>2</sup> Cooper's Hill College has now been closed, and the new method of selection is somewhat more favourable to the Indians.

<sup>3</sup> The native press has long contrasted English parsimony in the matter of sharing high appointments with what it styles the generosity of the Russians, who are alleged to give numerous well-paid posts to the natives in Central Asia. Colonel Yate, in his book on Seistan, has disposed of this allegation. The few natives whom he found occupying important functions under the Russians were men like Alikhanoff, who had been brought up in St. Petersburg, and entirely Europeanised, or fair Caucasians who were, in fact, Europeans. They were, moreover, very few in number, as compared with the proportion of Indians in service under the British, and badly paid.

financial argument. "The immense English staff," he says, "is very expensive. The members of it require high pay in India, and enormous pensions when they retire. Replace them by Indians, who are accustomed to live on little, and you will make a notable reduction in your budget without diminishing the efficiency of the administration."

To all these arguments the English have an answer, and it is here that the fundamental misunderstanding of which I have spoken appears. The Indians only plead their talent and cleverness: the English are specially preoccupied with *character*. What they look to, mainly, is the moral value of the man: coolness in decision, rapidity in action, a conscience which can resist temptation, and an energy which can face threats—in fine, a sentiment of duty towards one's country and one's self. On intelligence attested by brilliant examinations, eloquent speeches, or ingenious writings they do not set such high store: they class such achievements as minor merits. Lord Lawrence, for instance, was certainly not the most talented or clever civilian of his time, but he was chosen as Viceroy because he possessed in supreme measure the incomparable gifts of will and rectitude. It was qualities of this character, no doubt, which the English in the mother country and in the Government of India had in view when, on various occasions, they used the word fitness in connection with the admission of natives to public office. They would have done well, however, to explain themselves more clearly, and to say that the doors of the Civil Service would be largely opened only to candidates of high moral worth. The Indians would then have worked to improve their *morale*, for no one doubts, not even themselves, that their weak

point is on the moral side. They do not inspire confidence, and they lack confidence in each other. All of them, whether they avow it or not, trust more in the word of an Englishman than in that of most Indians, and nearly all of them would confess in private that social reform should commence with moral reform, the improvement of society with the improvement of the individual.

The English, moreover, maintain that, even as it is, they have given to the Indians a suitable proportion of the higher posts. They cite as examples of this the fifteen natives in the Indian Civil Service in Bombay, their share in civil employment in Berar, which is so large as to raise protests from the English press, the number of native judges in the High Courts, the high place to which they can attain in the Accounts Department, and so on.

Nor are they much affected by arguments based on economy. They know that, in their service, the Indians have acquired the habit of drawing large pay, and that were they to become the masters of the Indian bureaucracy they would not reduce salaries.<sup>1</sup> To the reproach that their rule is costly, the English reply that good officials, like material products, must be paid for at their market value; that they take them where they can get them; and that they will cease to import them from Europe when they can obtain a sufficient quantity in India.

Finally, and this is the decisive argument, they invoke the necessities of their rule. They maintain that this is advantageous to India herself, and that even those Indians who criticise it probably detest it less than any other form of government which might

<sup>1</sup> For example, native judges in the High Courts get Rs. 4000 a month, like their European colleagues.

replace it. Nor do they fear to maintain that their dominion in India has become an indispensable factor in their policy. Great Britain, deprived of India, would sink in the world; and India can only be maintained with good government, which cannot be afforded by pure Indian agency. They have observed, in this connection, that the best native official of whatever race ends by becoming absorbed in his official duties. The Indian agents of the Government soon lose those qualities of subtle devotion of which the ruling power has so much need in a dependency. They no longer furnish men who can multiply their functions, who can be at once servants of the Government and interpreters of its policy, who are eager to execute the work entrusted to them and, at the same time, to serve as intermediaries between the people and the Government. The Indian official very soon becomes a bureaucrat. Proud of his position, and anxious to satisfy his departmental superiors, he becomes absorbed in technical work; he offers the Government his personal loyalty, but not a loyal propaganda.

The conclusion they draw is not, of course, that the present Indian officials should all be replaced by Englishmen, for such a remedy would be a hundred times worse than the disease. What they desire is to continue to keep at the head of the Government and of the administration a suitable proportion of British functionaries—and even men like Mr. Gokhale have not yet contested this ultimate right—whose general competence, including acquired and innate talent as well as character, renders them able and faithful defenders of the *Raj* and of its interests.<sup>1</sup> This necessary element

<sup>1</sup> Mr. Gokhale, in a speech in the Viceroy's Legislative Council on the 24th March 1904, recognised that, in present circumstances, the Indian Civil Service

having been obtained, there will be no attempt to extend the share of the British. On the contrary, efforts should be made to train up native functionaries worthy in every respect of the confidence of the Government, and if these men show zeal and fidelity, their portion in the administration will be continually increased even to the prejudice of the British element. It was in this spirit that, in May 1906, the proportion of the natives in the higher posts of the Public Works Department was increased, though to but a small extent, and that measures are now being taken to give the natives a larger share on the Legislative Councils, and an entry into higher positions hitherto denied them.

Measures of this sort are to some extent, and may become still more so, a victory for the literate class (the Babus) in India, and for the Radical party in England. The Anglo-Indians who condemn this, and resign themselves to it, ask what is the real native opinion on the subject; and to any one who knows the country, such opinion is not that of the journalists, the college students, or the lawyers, nor even that of the various fractions of the National Congress. This group is very interesting in itself, and it would be folly to despise its strength and deliberately to reject its demands, but it consists, in all, only of some tens of thousands. Even if we add all those whom it has enlisted, consciously or unconsciously, for the objects for which it is working, the total can still only be reckoned in hundreds of thousands. There are, however, other elements whose opinion has to be taken into account: the nobility, the landed gentry, and all working India; the agriculturists, from the Punjab to Malabar; the traders, from Rangoon to Karachi; and the industrials, from Bengal to Bombay. Outside, and more important than, the

aristocracy of talent comes the aristocracy of birth and wealth, and the mass of the people. What will these think of the larger and more effective share in the administration of India being given to Hindu literates? The people will continue to bear their burdens in silence. If they have thinkers within their ranks, these will hold that they have nothing to expect from the grant of larger powers to an egotistical fraction which, while speaking in the name of the people, is thinking, above all, of itself. As to the aristocracy, they will hold that England must decline as a consequence of abandoning its old policy of reliance on the *élite*. The nobles and gentry will not welcome, as an efficacious measure of reform, the grant of more places and higher powers to students, literates, and native "Competition-wallahs." All of them think, with the English and the Musalmans, that theoretical knowledge, the actual possession of which is often doubtful, is a poor factor compared to birth and experience. And what would rejoice the Babus of Bengal and the Poona Brahmans would be likely to cause grave displeasure to the men of action in the United Provinces and the Punjab.<sup>1</sup>

<sup>1</sup> An eminent ex-official of the Punjab, Colonel Grey, who still lives in the province, and meditates on the present in the light of fifty years' experience, has written the following apologue on the pretensions of the Bengali Babus to hold the first place in Indian administration:—

Suppose, he said, that the Chinese had set out to conquer Europe, and that the first peoples with whom they came into contact were the Mingrelians. They educate these, mould, and civilise them, and use them as intermediaries with the conquered peoples, and as collaborators in the work of administration. Later on, however, continuing their career of conquest, they meet the Greeks and the Romans. Should the Mingrelians then be allowed to maintain their monopoly, and to remain the only, or at least the principal, auxiliaries of the conqueror, to the exclusion of Romans and Greeks?

## SECTION V

*A Suggestion*

Speculation on the trend of events can, however, be but conjectural, and the present state of the question emboldens me to throw out a suggestion. If a foreigner, after twelve years of study, several journeys to India, and a thoughtful admiration for British work, may be allowed to form an opinion and offer counsels, here is the sketch of a plan which I respectfully submit to those whom it concerns.

The Government of India has entered on a definite path, from which it is difficult to go back ; it is bound to go on, until it finds a clear outlet. All that it can attempt at present is to get some advantage from the institutions which it has itself created, from the new classes which it has contributed to shape. It has organised an educational system whose results have hitherto been mediocre as regards knowledge, and unsatisfactory as regards politics, but which is all the same an agent of progress. The Young India which this system is helping to form may disquiet certain minds, but it constitutes a steady growth ; and it is a step towards a better India. The British Government cannot think of destroying its system or repudiating its work. It cannot retrace its steps ; it must go on. But it can modify its educational system, can improve the products of this, and can, above all, make a different use of them. As I have shown, efforts have been made to amend the system, but much more remains to be done. The constant error of the Government of India has been to attempt to organise and spread higher education among



a people which had everything to learn, with imperfect and cheap instruments. The result was bound to be wretched. With the exception of some half-dozen really remarkable men, such as the great chemist Bose and the learned professor Bandharkar, the product of the universities, with their inferior and ill-paid staff, has been an impatient and dangerous race of half-educated men. This product has been the more dangerous in that it has escaped all salutary control, for it has met with the complicity of its teachers and of the Government, who dared not denounce it, or rather describe it accurately, and the uncritical admiration of the people from which it has sprung, who have themselves been left in a state of almost absolute ignorance.

A second, and even greater, mistake was in the use of the imperfect instrument which had been created. The universities were, at the outset, asked to attract pupils, and to turn out men fit for subordinate official posts. As time went on, their out-turn became abundant, and remained mediocre. As the producing machine could not be stopped, efforts were made to provide for its products, but it was quite impossible to create as many places as there were candidates; hence plethora and discontent. As a remedy, the candidates were allowed to raise their pretensions far beyond their merits, and the middle strata of the administration have become encumbered with functionaries many of whom are unequal to their tasks. That, again, did not succeed in preventing fresh congestion and fresh agitation. At this stage, however, the students no longer hoped to obtain a sufficient outlet in the administration, and they therefore threw themselves into politics to sustain the pretensions, which they termed the rights, of their class.

The Government seems thus caught in the wheels of its own machine. It cannot stop the machine, but it can still regulate its working. Let it recruit *in England*, at high salaries, professors who have talent and a future before them. They cannot be many, for the cost would be prohibitive; but they must be thoroughly pervaded with the honourable and useful ideal to be attained, to raise teaching and examinations in India to a proper level. If this be done, there will shortly be a notable diminution, first, in the number of degrees given, and, next, in the number of candidates. The value of the degrees will be raised, and will thus permit of the requirement of more work and more intelligence from the students of the future. Those students who now aspire to magistrates' posts, while they are, at best, fit only to be clerks or accountants, will thus be disgusted and turn to other careers. They will remain in their villages, looking after their ancestral property, or they will take to trade.

But what is to be done with the elect—with those who have triumphed over the new tests and have been moulded by a better discipline? If care be not taken, these will still constitute a real danger. Their diminished number may increase their vanity, and if they all enter Government service, they will be found intolerable by the people and by their colleagues. In order to hold them to a just appreciation of their merits, it will be desirable, at every additional stage, to pick out a few among this *élite* who will be stimulated to take up pure science in its widest sense: they will furnish a standard by which the rest can be measured. The gain of knowledge for its own sake is a mine still unexplored in India, out of which the Government may draw treasures. The Indians, with few exceptions—Mr. Gokhale and his

friends, for instance, whose disinterestedness is beyond dispute—have been hitherto less greedy of power than covetous of places which bring profit or honour; and yet they seem to be admirably endowed by heredity for speculative study. England has not yet exploited this domain in India, and her credit has suffered thereby. With so many opportunities, she ought to have been able to furnish the learned world with students and studies on Asiatic thought, ancient and modern; but she has taken but a very moderate interest in this. Sanskrit, Persian, Pali, Arabic, ancient cosmogonies and poems, old metaphysical conceptions, the almost unknown ancient history of these regions—all that might, and ought to, have become the almost exclusive domain of Britain and her Indian subjects. She may be excused for her inaction by the fact that she had other and very notable preoccupations, but she has nevertheless a position to retrieve. Instead of these scholars, who repeat, without understanding them, so many theories borrowed from manuals and text-books, and who hide the poverty of their personal thought behind a mass of quotations which are often badly understood and badly applied, let England form, in the Indian universities, a reasonable proportion of really learned apprentices. And when their college course is over and they have obtained their degrees, instead of making them officials and professors—careers for which they are as yet little suited—let her push them on to erudition or speculation. Let her send them to Europe or America with decently filled purses; and let her leave them there, not for a few months, but for some years, in intercourse and contact with Western teachers and *savants*—not in London, where they might be diverted to politics, but at Oxford, Leyden, Paris, Berlin, or Harvard. Such a method will

bring the students double profit: it will develop their intelligence and teach them modesty. In such circumstances, young men as subtle as the Indians are cannot fail to understand the superficial character of the knowledge of which their compatriots have hitherto been so proud. The society of the truly learned will make them disdainful of smatterers. They, too, will become learned, and their learning will make them modest. They will be recognised *savants* of international reputation, members of learned academies, frequenters of literary or scientific congresses. A liberal salary will permit them to live sometimes in India and sometimes in Europe, and they will obtain reputation and profit from their knowledge. And when they return, with a halo of glory, to settle down in their native land, they will be critics and counsellors in the universities and, at the same time, practical professors of modesty and morality in the native world.

If a plan of this sort be well applied, and carried out by the Government of India in a broad and liberal fashion—if that Government sends to England, Germany, France, Italy, the United States, and Russia (and later on, when this will no longer be a peril, even to Japan), not one or two scholars—for that would be an incalculable blunder—but an adequate number of mature students, who can supervise one another as well as obtain the benefit of their surroundings, I have no doubt that it will succeed, in a striking degree, in raising the level of university status in India, and in producing a material improvement in the attitude of the educated classes. India will see for the first time students who really study, *savants* who are really learned, and educated men who are no mere pedants.

So much for knowledge and society: now as regards

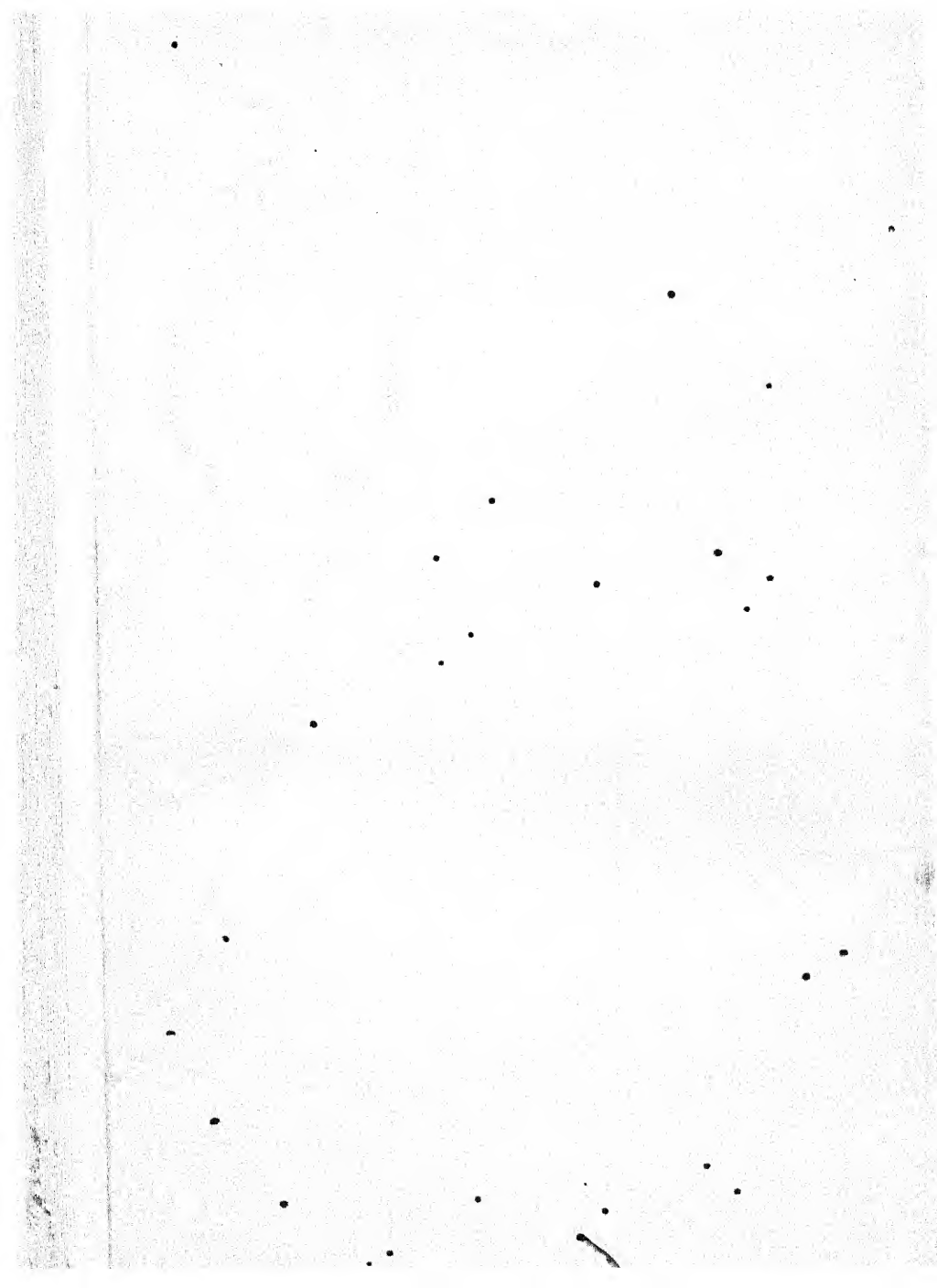
the administration. In the conflict over Government appointments, which has now lasted for a quarter of a century, between Hindus and Musalmans, the Musalmans are incontestably right. I am certainly no enemy of the literary classes, the students and the Babus. If one of these were to come to France, to make an inquiry into the state of things there, I should probably be classed by him among the Babus of that country. I fully appreciate the value and dignity of learning, but I do not think that intelligence and knowledge can by themselves mould a ruling class. I see a great danger in any premature seizure of power by this literary minority in India, whose knowledge is of a narrow and theoretical character, who lack a past, and hereditary or acquired experience. Let some of them raise themselves by force of talent to the level of the traditional ruling classes, and act as a leaven to these; such infiltration may have fruitful consequences. But to give the administration entirely over to these *litterati*, to exclude from it almost all the representatives of the ancient ruling classes of India, who would be left a prey to rancorous discontent, as well as the enormous and humble mass of the population, is more than a mistake. It is a political blunder of the worst description, utterly unjustifiable on the part of a people who were themselves for so long a purely aristocratic nation.

It would also be necessary to beware of formulating uniform rules for all India. Each province requires its own, adapted to its old traditions and its present condition; but whatever province may be in question, it is certain that, in the recruitment of its officials, a larger share ought henceforth to be given to moral qualities, to conscience and will, energy and tenacity. If such qualities cannot be obtained by an examination

system, let other methods be tried: let some be borrowed, for example, from the system of representative government.

A distinction between the lower official functions, entry into which can be left to examinations, and high posts, for which the Government should have a free choice; adequate representation of diverse interests, such as the aristocracies of birth and wealth, commerce and industry, learning and science, in multiplied and re-organised local Councils, and in honorary public functions; the determination, in each province, of a specific number of appointments to be given to the followers of the two great religions; finally, a more constant use of a preventive system, which shall keep outside the threshold of the administration all whose loyalty, judgment, and conscience are open to suspicion—these are some reasonable methods which would probably be successful in giving the native element a necessary and sufficient place in the administration of its own country. With a reform of the system of education, with the administration recruited from various sources, with re-organised Councils—the British Government, resting henceforth on the princes, on the aristocracy, on wealth, on the different religious creeds, on modern science and traditional experience, might confidently face storms arising from any quarter, and might maintain its dominion as long as it judged that to be for the interests of India, and for its own glory.





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